LEWIS AND ROCA LLP LAWYERS

ORIGINAL

0000013302

BEFORE THE ARIZONA CORPORATION COMMISSION

MARC SPITZER
Chairman

WILLIAM A. MUNDELL
Commissioner

JEFF HATCH-MILLER
Commissioner

MIKE GLEASON
Commissioner

KRISTIN K. MAYES
Commissioner

Arizona Corporation Commission
DOCKETED
NOV 1 8 2004
DOCKETED BY

AZ CORP COMMISSION
DOCUMENT CONTROL
2004 NOV 18 P 4:46
RECEIVED

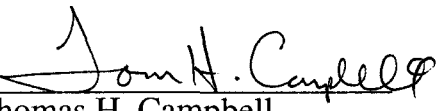
IN THE MATTER OF QWEST CORPORATION'S FILING AMENDED RENEWED PRICE REGULATION PLAN	Docket No: T-01051B-03-0454
IN THE MATTER OF THE INVESTIGATION OF THE COST OF TELECOMMUNICATIONS ACCESS	Docket No. T-00000D-00-0672

NOTICE OF FILING DIRECT TESTIMONY OF DON PRICE ON BEHALF OF MCI, INC.

On November 18, 2004, MCI, Inc. filed the attached direct testimony of Don Price in the above-referenced matter.

RESPECTFULLY SUBMITTED this 18th day of November, 2004.

LEWIS AND ROCA



Thomas H. Campbell
Michael T. Hallam
40 N. Central Avenue
Phoenix, Arizona 85004

- AND –

Thomas F. Dixon
707 N. 17th Street
Denver, Colorado 80202

Attorneys for MCI, Inc.

ORIGINAL and fifteen (15) copies of the foregoing filed this 18th day of November, 2004, with:

Arizona Corporation Commission
Docket Control – Utilities Division
1200 W. Washington Street
Phoenix, Arizona 85007

COPY of the foregoing hand-delivered this 18th day of November, 2004, to:

Jane L. Rodda
Administrative Law Judge
Arizona Corporation Commission
1200 W. Washington Street
Phoenix, Arizona 85007

Maureen Scott, Legal Division
Arizona Corporation Commission
1200 W. Washington Street
Phoenix, Arizona 85007

Christopher Kempley
Legal Division
Arizona Corporation Commission
1200 West Washington
Phoenix, Arizona 85007

Ernest Johnson, Director
Utilities Division
Arizona Corporation Commission
1200 W. Washington Street
Phoenix, Arizona 85007

COPY of the foregoing mailed this
18th day of November, 2004, to:

Timothy Berg, Esq.
Theresa Dwyer, Esq.
Darcy R. Renfro, Esq.
Fennemore Craig
3003 N. Central Avenue, Suite 2600
Phoenix, Arizona 85012

Todd Lundy, Esq.
Qwest Law Department
1801 California Street
Denver, Colorado 80202

Michael W. Patten
Roshka, Heyman & DeWulf, PLC
400 E. Van Buren Street, Suite 800
Phoenix, Arizona 85004

Mark A. DiNunzio
Cox Arizona Telecom, LLC
20401 N. 29th Avenue
Phoenix, Arizona 85027

Brian Thomas, Vice President Regulatory
Time Warner Telecom, Inc.
223 Taylor Avenue North
Seattle, Washington 98109

Scott S. Wakefield, Esq.
Residential Utility Consumer Office
1110 W. Washington Street, Suite 220
Phoenix, Arizona 85007

Richard Lee
Snavely King Majorors O'Connor & Lee, Inc.
1220 L Street N.W., Suite 410
Washington, DC 20005

LEWIS AND ROCA LLP
LAWYERS

Peter Q. Nyce, Jr.
Regulatory Law Office
U.S. Army Litigation Center
901 N. Stuart St., Suite 713
Arlington, VA 22203-1644

Jon Poston
ACTS
6733 East Dale Lane
Cave Creek, AZ 85331

Martin A. Aronson, Esq.
Morrill & Aronson PLC
One E. Camelback
Suite 340
Phoenix, AZ 85012-1648

Walter W. Meek, President
Arizona Utility Investors Association
2100 N. Central Avenue
Suite 210
Phoenix, AZ 85004

Albert Sterman, Vice President
Arizona Consumers Council
2849 E. 8th Street
Tucson, AZ 85716

Betty J. Griffin

BEFORE THE ARIZONA CORPORATION COMMISSION

COMMISSIONERS

MARC SPITZER, Chairman
WILLIAM A. MUNDELL
JEFF HATCH-MILLER
MIKE GLEASON
KRISTIN K. MAYES

IN THE MATTER OF QWEST CORPORATION'S FILING AMENDED RENEWED PRICE REGULATION PLAN.	)	DOCKET NO. T-01051B-03-0454
IN THE MATTER OF THE INVESTIGATION OF THE COST OF TELECOMMUNICATIONS ACCESS	)	DOCKET NO. T-00000D-00-0672

DIRECT TESTIMONY

OF

DON PRICE

MCI, Inc.

NOVEMBER 18, 2004

TABLE OF CONTENTS

Introduction and Background

Q. Please state your name, title, and qualifications.

A. My name is Don Price. I am employed by MCI, Inc. [the parent company of MCImetro Access Transmission Services, LLC ("MCIm")] as Senior Manager - Competition Policy. I have more than 25 years experience in telecommunications, most of which is in the area of public policy. Over the past 10 years, the focus of my job responsibilities at MCI has been on policy issues relating to the opening up of previously monopoly local telecommunications markets. I have testified on a wide range of issues in a number of arbitration proceedings related to interconnection agreements between MCI and incumbent local exchange carriers ("ILECs"). In my current position, my responsibilities include developing company policy on a number of issues including intercarrier compensation and network architecture, unbundled network elements, and numerous other issues. This requires working closely with many different organizations within MCI, including the personnel responsible for the design and operation of the company's network, persons in the finance department, and personnel responsible for marketing and selling products and services across all market segments.

I have participated in numerous proceedings involving a variety of telecommunications issues over the years, providing testimony on such issues as access rates, technical and financial issues relating to interconnection, public interest issues related to granting of Section 271 relief, and policy and technical issues relating to unbundled network elements. I have been directly involved in

negotiations with major ILECs for interconnection agreements under the 1996 Act, and participated in various regulatory proceedings involving requests for relief under Section 271 of the Act. A more detailed review of my qualifications, as well as a listing of the proceedings in which I have filed testimony, is included in Exhibit DP-1 attached to my testimony.

Purpose of Testimony and Relief Requested by MCI

Q. What is the purpose of your testimony?

A. In this testimony, I discuss why technological, marketplace, and regulatory changes necessitate a complete reexamination of state retail regulation, including an affirmative move toward a unified compensation scheme including intrastate access charges, which ultimately affect retail competition. I demonstrate the urgent need for the Commission to reduce Qwest's intrastate switched access charges in Arizona to levels approximating economic cost because access charges in particular are an unjustified remnant of old, outdated regulation that ultimately distorts the retail marketplace. As will be seen, there are numerous reasons why this is true. One of the most compelling reasons, however, is the proliferation of new competitive alternatives, as discussed at length in the testimony of Qwest witness, David L. Teitzel, which provides the basis for Qwest's requested relief in this proceeding. Those new competitive alternatives create a basis for fundamental changes to the existing regulatory framework far beyond the one-sided regulatory flexibility plan set forth in Qwest's testimony previously filed in this proceeding. I will further explain how the

original public policy rationale used to justify setting of in-state switched access rates at above-cost levels has long outlived its usefulness and can no longer be rationally sustained. Today, the effects of allowing Qwest to charge excessive in-state switched access rates are anti-consumer, anti-competitive, and unreasonably discriminatory.

Q. What relief is MCI requesting the Commission grant in this proceeding?

A. For all the reasons set forth in my testimony, MCI respectfully urges the Commission to reduce Qwest's Arizona intrastate switched access charges to levels approximating economic cost.[1] If, however, the Commission is unwilling to take such action at this time, at a minimum, it should require Qwest's intrastate switched access rates to mirror its interstate switched access rates. Although interstate switched access rates are above cost and, therefore, unreasonably discriminatory, an immediate reduction of intrastate rates[2] to parity with Qwest's interstate rates would diminish the most egregious anticompetitive effects of existing rate levels.[3] There is no economic basis for maintaining the current above-cost rate disparity above interstate rate levels because the functions necessary to provide "intrastate" and "interstate" access services are identical. Further, there is no public policy or other rational basis for maintaining the current rate disparity. Creating parity between intrastate and interstate access

[1] See, Direct Testimony of Teresa K. Million, Proprietary Exhibit TKM-01, page 2, Qwest's "Arizona Summary of Recurring costs," at lines headed "Switched Access Service TSLRIC Qwest shows for Switched Access Service, attached here as Confidential Exhibit DP-2.

[2] See, Qwest Response to ATT 01-024, attached here as Exhibit DP-3.

[3] Such a "mirroring" should not be a one-time occurrence, but rather should track changes to Qwest's interstate rates over time.

rates is a result that should be the absolute minimum required of Qwest as an outcome of the instant proceeding.

An Introduction to "Real Deregulation"

Q. Does MCI generally support Qwest's request for pricing flexibility?

A. Yes as a concept, but not as proposed by Qwest. As I discuss below in detail, I agree with Qwest's witnesses that recent technological, regulatory, and market developments in the telecommunications industry support a complete re-examination of the tools used by regulators. I also agree that these developments justify substantial retail pricing flexibility. Qwest's proposals in this proceeding however are incomplete and insufficient in light of these technological and market developments in at least two ways. First, progressive regulatory reform beyond what Qwest is proposing is absolutely critical and should be implemented. Such reform should be designed to truly "level the playing field" for all market participants -- not just for traditional dominant carriers such as Qwest. Second, the old, outdated access charges that distort the market must be reduced to avoid further massive marketplace distortions. The necessity of such retail regulatory reform simply recognizes the obvious – that consumers either now have or will soon have choices among both traditional and non-traditional communications providers, including cable companies, wireless providers, and Voice over Internet Protocol ("VoIP") providers. Moreover, if current trends continue, or if the Bell/cable duopoly over broadband is broken as the FCC is attempting to do, then consumers' choices will grow over time.

Q. Please explain what you mean by this.

A. MCI advocates "real deregulation," and my testimony will explain why the facts presented by Qwest support "real deregulation" rather than the limited and self-serving proposals offered by Qwest in this proceeding. Real deregulation means that the underbrush of old, traditional state retail regulation must be cleared away so that consumers in the marketplace, rather than regulators, pick winners and losers. By no longer perpetuating the unequal burden of outdated retail and access charge regulation, real deregulation will foster a more vibrant, real retail competitive market benefiting Arizona consumers. Importantly, real deregulation also means that no one carrier can or should be protected by regulation.

By this, and as I explain in more detail below, Qwest presently benefits from certain vestiges of regulatory protectionism that are no longer justified in the current competitive marketplace. These lingering vestiges of archaic rate base/rate of return regulation were born in the days of the old Bell System monopoly and the only purpose they serve is to protect Qwest's revenue streams. Such protection is inconsistent with a competitive marketplace and contrary to the notion of deregulation or "flexibility" in the face of market changes.

Q. Please describe the organization of the remainder of your testimony.

A. In the next section, I will discuss a number of forces – technological, legal, and market -- that are affecting the industry and why these forces must be recognized as part of any meaningful discussion of the kinds of changes needed in traditional regulatory tools. That section provides a basis for evaluating both the

facts presented by Qwest in its testimony as well as the limited regulatory changes that it is proposing.

Then, in the subsequent section, I focus attention on the origin and purpose of switched access charges and the impact of the technological, legal, and market forces on the interexchange carriers ("IXCs") who are subject to these above-cost charges. In this section, I will explain why continuing that revenue stream to Qwest constitutes a form of regulatory protectionism that is inconsistent with notions of deregulation. Further, I explain why these charges now constitute a massive form of discrimination against traditional IXCs such as MCI.

Unavoidable Forces are Changing the Industry

Q. You have used the phrase "unavoidable forces" in the title of this section of your testimony. What do you mean by that?

A. By that, I mean that there are forces in play that are beyond the control of regulators. Those forces include technological changes that impact service providers and their services, market changes in how consumers buy products, and structural changes in the telecommunications industry involving the types of service providers from which consumers may choose.

In many respects, the description I present of the market for communications products in Arizona today is generally consistent with the perspective presented in the testimony of Qwest witness David Teitzel. That said, it is my intent in this testimony to provide for the Commission a broader perspective of the history of the industry, as well as technological and market

trends that together have created the current environment so as to provide a solid context for the relief MCI is seeking.

Technological Changes

Q. Please explain these technological changes.

A. To do that, it is helpful to take a bit of a backward look to gain a perspective of network technology "then and now," so to speak. If we look at the networks being operated in the 1980s at the time of the divestiture of the Bell Operating Companies from the Bell System, those networks continued to rely primarily on copper transmission equipment. That was true both in the loop plant – the wires connecting residences and businesses with the ILECs' switching equipment[4] – and in interoffice facilities – the transmission equipment connecting switches.

As regards the technology used in switching equipment, many of the Bell Company switches in the 1980s were still electromechanical devices of the type that had existed for decades. Switch manufacturers were in the early stages of introducing computer-based circuit switching equipment. Over the past two decades, digital circuit switches became the industry standard, although the industry now is embracing a new switching concept based on switching packets of information rather than switching to connect two circuits.

The effects of the rapid advances in microelectronics technology over the past two decades are visible in every part of our lives. In the early 1980s, computers were a relative rarity in homes. They are now as common as

[4] The Qwest witnesses refer to this is the Network Access Channel, or "NAC."

toasters, and powerful microchip technology has become pervasive well beyond the desktop or laptop computer. One example is seen in the proliferation of hand-held game devices such as Game Boys and iPods, but the technology is now also a key component of many kitchen appliances, toys, automobiles, and numerous other consumer products. The ability to cram millions of transistors on a single chip has literally enabled a single silicon chip to do the work of what twenty years ago would have taken rooms of computers.[5]

The rapid advancements in microelectronics have paralleled the rapid developments in optical transmission technology, where strands of thin glass fibers are used to transmit digital optical signals at billions of bits per second. These advances have revolutionized transmission networks. Fiber optic networks, which saw their first use in the IXCs' interstate long distance backbone networks in the late 1980's, are now widely used in the feeder portions of the incumbent LECs' loop plant and, in some instances, fiber is deployed all the way to the customers' premises.[6]

The combined changes in switching equipment brought about by advanced microelectronics and in transmission technologies because of the introduction of fiber optic systems have radically transformed the legacy networks the Bell Operating Companies inherited at divestiture. In the 1980s,

[5] Intel boasted more than two years ago of being able to cram more than 300 million transistors on a single chip, and the pace of technology continues apace. See "Intel Unveils World's Most Advanced Chip-Making Process," press release of August 13, 2002, viewed on October 5, 2004 at http://www.intel.com/pressroom/archive/releases/20020813tech.htm.

[6] Verizon recently announced that it was beginning limited deployment of fiber to the premises. See "Verizon Poised to Deliver First Set of Services to Customers Over Its Fiber-to-the-Premises Network," press release dated July 19, 2004, viewed on October 5, 2004 at http://newscenter.verizon.com/proactive/newsroom/release.vtml?id=86053.

network intelligence was focused in the massive switching machines situated in the incumbents' Central Offices. In today's networks, that intelligence has been distributed out into the network, to intelligent devices located in closer proximity to consumers. Indeed, the FCC found that "that the remote terminal has, to a substantial degree, assumed the role and significance traditionally associated with the central office."[7]

Importantly, just as we have seen in the world of consumer electronics, prices for equipment used in telecommunications networks have declined rapidly over the past decade. In fact, a recent article quoted Qwest President John Badal as stating that one of the reasons Qwest has had difficulty meeting its investment objectives under the New Mexico Alternative Form of Regulation plan was that "the cost of telecommunications equipment has fallen so steeply."[8] This fact of cost declines also has significance to the unreasonableness of Qwest's intrastate switched access rate levels, as discussed in more detail below.

Q. Are there other implications of these changes in technology beyond the networks of the incumbents?

A. Absolutely. The revolution in switching technology has been the single largest enabler of wireless services. The switching technology of the 1980s was incapable of tracking calls as a customer moved out of range of one radio transmitter site (now called a cell site) into another, without which current mobile

[7] Implementation of the Local Competition Provisions of the Telecommunications Act of 1996, *Third Report and Order and Fourth Further Notice of Proposed Rulemaking*, CC Docket No. 96-98 ¶ 218 (Released Nov. 5, 1999) (*UNE Remand Order*).

[8] Santa Fe New Mexican, "Qwest Still has Promises to Keep," July 18, 2004

wireless services could not be offered. And the revolution in microprocessors has dramatically impacted the size of the hand-held devices. Most of us remember the initial cell phones that were nearly as large as a shoe-box. Over the years, the size of cell phones has shrunk. These technological innovations driving down the cost of equipment and increasing capabilities, combined with increased competition due to the entry of additional wireless providers, have dramatically reduced consumer prices for both the underlying service and the consumer equipment. The phenomenon described in Mr. Teitzel's testimony – that there are more Arizona customers with cell phones than Qwest has access lines – is certainly indicative of the fact that having a cell phone is no longer considered a luxury.

New technologies have also transformed the cable TV providers' networks. Those networks historically utilized coaxial cable all the way to the customers' premises, and transmission over the coaxial cable was one-way to the customer. But about the same time the ILECs began significant deployment of fiber optic equipment in their loop feeder plant, the cable providers also introduced fiber optics into their networks, along with other technology that permitted transmission of two-way signals. With these changes in place, the cable providers began to provide cable modem service in large numbers in the late 1990s.[9] In many states, that milestone marked the introduction of the first "broadband" services.[10]

[9] It is widely agreed that cable providers led the way in introducing so-called "broadband" services to the general public, although Arizona does not fit this trend. See, "High-Speed Services for Internet Access: Status as of December 31, 2003," released June 8, 2004 by the FCC Wireline Competition Bureau's

At the same time, improvements in home computing technology have impacted numerous aspects of our lives. In 2003, it was estimated that 75 million households, more than 2/3rds of all U.S. households, utilized computers, networked either with dial-up Internet access or broadband.[11] The implications of society's embrace of computer technology on the way we communicate are enormous.[12] By the end of 1999, the volume of e-mails in this country surpassed the pieces of mail handled by the U.S. Postal Service.[13] Also in 1999, it was estimated that the number of e-mail accounts reached 225 million in the U.S., exceeding the number of end user telephone lines – reported by the FCC at 189 million.[14] More recently, Instant Messaging has become pervasive, as have computer applications that use the Internet to transmit streaming audio and video. Such applications have been enhanced to enable two-way voice communications over the Internet, and although the numbers of persons using

---

Industry Analysis and Technology Division, at tables 9 and 10. Based on these data, it appears that DSL providers began offering services before cable modem service was introduced in significant volumes.

[10] The term "broadband" is often used without definition. At this time, the FCC's definition of service that permits transmission at speeds of at least 200 kilobits per second is considered by many to be overly generous, particularly compared to technologies in use in other countries such as Korea where multi-megabit speeds are the norm.

[11] TNS Telecoms Request Consumer Survey, 2Q04 showing that 76% of total U.S. households have a computer at home and 68% of U.S. households have Internet access. U.S. Census at end of 2003 showed 11,278,000 U.S. households.

[12] The Internet and use of peer-to-peer computer applications such as Napster have convulsed the entertainment industry as consumers "swap" music and video clips. As we will see later, such applications have now been introduced to enable voice communications without any use of public switched telecommunications networks.

[13] See, "Messaging Online," February 4, 2000, http://www.sims.berkely,edu/reasearch/projects/how-much-info/internet/emaildetails.html

[14] See, http://www.computeruser.com/clickit/printout/news/329839560002041920.html, "Newsbytes," April 5, 2000.

such applications (so-called "Voice over Internet Protocol," or "VoIP") is small, those numbers are growing rapidly.

Also, certain new wireless technologies are being accepted in growing numbers as persons link their computers using Wi-Fi "hot spots."[15] An exciting new development – though not yet commercially available -- is represented by the cooperative efforts of a number of leading companies, including Intel, Siemens Mobile, Alcatel, and many others to develop a standards-based technology referred to as WiMAX.[16] According to Intel's website:

> WiMAX is a standards-based wireless technology that provides high-throughput broadband connections over long distances. WiMAX can be used for a number of applications, including "last mile" broadband connections, hotspot and cellular backhaul, and high-speed enterprise connectivity for businesses. An implementation of the IEEE 802.16 standard, WiMAX provides metropolitan area network connectivity at speeds of up to 75 Mb/sec. WiMAX systems can be used to transmit signal as far as 30 miles. However, on the average a WiMAX base-station installation will likely cover between three to five miles. [17]

WiMAX technology, which the Telecommunications Industry Association projects will experience a nearly twenty-fold infrastructure revenues growth over the next four years, once it is introduced in 2006 offers the potential to break the umbilical cord of the ILEC's twisted copper pair network and the cable company's coaxial

[15] See, for example, "Mayor Announces Wi-Fi plan for San Francisco," Reuters, November 22, 2004, 12:25 BST; Wi-Max World Trade Show, November 3, 2004, "Wi-Max for the Masses?;" Wi-Fi Technology Forum Press Release, November 3, 2004, "Study shows Wi-Fi Technology With Strong Growth; Security Remains Barrier Wireless LANs (Wi-Fi Networks) Go Mainstream is IT as Security Improves; VoWLAN Looks Promising."

[16] See, for example, "Mayor Announces Wi-Fi plan for San Francisco," Reuters, November 22, 2004, 12:25 BST; Wi-Max World Trade Show, November 3, 2004, "Wi-Max for the Masses?;" Wi-Fi Technology Forum Press Release, November 3, 2004, "Study shows Wi-Fi Technology With Strong Growth; Security Remains Barrier Wireless LANs (Wi-Fi Networks) Go Mainstream is IT as Security Improves; VoWLAN Looks Promising."

17 See, http://www.intel.com/netcomms/technologies/wimax/, viewed on October 7, 2004.

network, allowing consumers to utilize broadband capabilities provided by other entities. While these changes will not happen tomorrow and while we cannot yet know the pace of customer acceptance once introduced, this potential for a third "pipe" to the home also has enormous consequences for the issues facing the Commission in this proceeding.

Market Changes

Q. You earlier had noted "market changes" among those forces you claim are unavoidable. What are the "market changes" to which you refer?

A. The first and most significant market change that has occurred is the practical elimination of the distinction between local and long distance calling among traditional wireline providers. These market changes involve both the service providers and the way services -- in particular, telecommunications services – are offered to the public. Telecommunications services in the past were provided on an "a la carte" basis, with the past two decades characterized by bright line distinctions between providers of various services. Consumers were accustomed to obtaining different services from separate companies. For example, in the past a consumer got her local service from the ILEC – typically a Bell Operating Company – while receiving her long distance service from an interexchange provider, wireless service from her cellular company, and her entertainment from a cable operator. Now, rather than "a la carte" pricing with services provided by separate entities, the market is increasingly characterized by vertically integrated providers who compete on a broad range of service

packages – many of which are available in bundles. In preparation of this testimony, I accessed Qwest's website and immediately found information on several service bundles for residential customers, including bundles of local and long distance and bundles including entertainment packages.[18] And Mr. Teitzel's testimony gives other similar examples from other service providers in Arizona.

As consumers become accustomed to obtaining bundles of services from a single provider, the historic distinctions between the various lines of business will cease to exist. Quite simply, traditional regulatory philosophies and techniques are incapable of resolving the many complications that arise from this fact. For example, when Qwest uses the same local loop plant to provide residential local voice service, a DSL-based Internet access service, and "Qwest Choice™ TV & OnLine," there is no non-arbitrary way to allocate "responsibility" for the cost of the loop plant between Qwest's traditionally regulated service and the other services provided over the loop. The problem of cost allocation traditionally has been a problem with the local loop and a hotly disputed topic in rate cases.[19] In today's environment where both regulated and unregulated services can be provided by Qwest over those loop facilities, however, the only

[18] See, for example http://www.qwest.com/newpackages/index.html, viewed on October 5, 2004.

[19] The FCC described the problem of cost allocation of the loop as follows. "These costs pose particularly difficult problems for the separations process: the costs of such facilities cannot be allocated on the basis of cost-causation principles because all of the facilities would be required even if they were used only to provide local service or only to provide interstate access services. A significant illustration of this problem is allocating the cost of the local loop, which is needed both to provide local telephone service as well as to originate and terminate long-distance calls." *In the Matter of Access Charge Reform*, Sixth Report and Order in CC Docket Nos. 96-262 and 94-1, released May 31, 2000, FCC 00-193 at ¶ 11.

rational way to resolve such disputes is for the end user to bear all costs associated with the loop.[20]

Q. Please explain how the various market changes relate to your discussion of "unavoidable forces."

A. The circumstances of the market today are a dramatic departure from the past. Prior to 1984, the entire U.S. telecommunications market was characterized by one massive, vertically integrated, monopoly provider of telecommunications equipment and services – the Bell System. The Bell System -- via its Western Electric manufacturing subsidiary -- controlled the manufacture both of telephone equipment for consumers and of the equipment (switches, etc.) used by the Bell Operating Companies in providing services. The Bell System monopolized the long distance market in the United States via its Long Lines division. And, the Bell System had a legal monopoly in local telecommunications markets, where its Bell Operating Companies were rate-of-return regulated by the states.[21] The pre-divestiture Bell System was the largest corporation in the world, employing more than 1 million people in the U.S.

On January 1, 1984, the Bell System – pursuant to a settlement of the largest antitrust case ever brought by the U.S. Department of Justice – agreed to

[20] On October 5, 2004, the Intercarrier Compensation Forum ("ICF") filed with the FCC a comprehensive Intercarrier Compensation and Universal Service Reform Plan in CC Docket No. 01-92. The ICF is composed of long distance carriers, incumbent LECs, rural carriers, competitive LECs, next-generation network providers, and wireless carriers. As part of the comprehensive Plan, rather than recovering network costs via carrier charges, each carrier would recover from its own subscribers the costs of transmitting calls to and from them, including the cost of the local loop or other "last mile" facility. That such disparate companies could agree on such an important principle is ample demonstration of the degree of consensus on this issue.

[21] In Arizona, Qwest is the successor to Mountain States Telephone Company, the Bell System subsidiary that became US West on January 1, 1984.

divest itself of the Bell Operating Companies and their monopoly local service operations. The divestiture (sometimes referred to as a "break-up") resulted in structural separation of the monopoly operations from those businesses that were considered to be potentially competitive.[22] Thus, the Bell Operating Companies (such as Qwest) continued to provide local services, and remained subject to full rate-of-return regulation by virtue of their legal monopoly status in those local services markets. The structural separation meant that the Bell Operating Companies were prohibited from providing certain services, including the provision of long distance services.[23] On the other hand, because the manufacturing and long distance operations now operated independently of the local monopoly bottleneck facilities, there were no restrictions imposed on the lines of business in which those entities could participate.

Q. What were the effects of the structural separation brought about by divestiture?

A. This structural separation, along with the technological limitations extant at that time, were significant factors in creating the "a la carte" market for telecommunications services – sometimes referred to as market "silos" because each market was separate and distinct. Within the "long distance market," however, the government's plan to stimulate competition was a dramatic success. According to the FCC Wireline Competition Bureau's Industry Analysis

[22] The key markets that the government considered potentially competitive were long distance and manufacturing, as the anti-trust abuses that were documented at trial focused on those lines of business.

[23] The exception to this is that the Bell Operating Companies were allowed to continue to provide intraLATA toll services.

and Technology Division, AT&T's share of the domestic long distance service revenues fell from above 90% in 1984 to about 60% by the early 1990s.[24] Customers were able to presubscribe to their long distance carrier of choice and change providers at will according to which firm offered the better service package. The extent of competition in the long distance market is demonstrated by the fact that changes in long distance carriers (so called "PIC" changes) occur hundreds of millions of times each year![25]

As I have already noted, the "line of business restrictions" that applied to the Bell Operating Companies precluded them from providing interLATA long distance services.[26] At the same time, both legal and economic barriers to entry precluded entry by interexchange carriers into the local service markets. The cable operators were at that time satisfied with the monopoly they enjoyed in their respective service areas and were not competing for the provision of any communications services.[27] That was the situation that Congress sought to change with passage of the Telecommunications Act of 1996 (the Act).

---

[24] *Statistics of the Long Distance Telecommunications Industry*, released May 14, 2004, Table 7 "Shares of Total Toll Service Revenues Long Distance Carriers Only.".

[25] Primary (or, Presubscribed) Interexchange Carrier, or PIC, is the term that applies to the carriers that receive calls dialed on a 1+ basis from the customer's premises.

[26] The role of the Bell Operating Companies at that time was limited to being wholesale suppliers of "access" to the long distance companies that provided retail long distance services. As discussed more fully below, that historic circumstance is one of several key reasons why access charges have outlived their usefulness.

[27] There were various reasons for this, not the least of which was technological. In particular, the cable systems that were in operation until the mid- to late 1990s were incapable of passing signals in both the upstream and downstream directions. That is, the systems at that time were incapable of passing two-way communications, an essential component of voice telephony and communications via the Internet.

As a result of the Act's elimination of the legal barriers to entry and the technological revolutions discussed previously, the traditional market silos are rapidly disappearing. Cable operators now provide packages of entertainment, broadband Internet capability, and have recently begun to offer substitutes for local voice services.[28] And, having been granted in-region relief under §271 of the Act, Qwest and its sibling ILECs now provide bundles of local, long distance, internet access, and entertainment offerings. In short, the marketplace circumstances within which the Commission is seeking to exercise its obligations are radically different than in the past. At the very least, we know that the concept of LATAs that was introduced twenty years ago is no longer relevant given Qwest's entry into the retail interLATA market and the introduction of product bundles.

Q. Has this Commission taken note of the types of market changes you have described?

A. The Commissioners have recognized the dramatic change of market conditions in Arizona. This Commission recently opened a docket to investigate the status of competition in Arizona. Commissioner Hatch-Miller stated in pertinent part in his letter dated October 21, 2004:

> Competition has been shaped by implosion and subsequent consolidation within the market, uneven regulation at the federal level and endless litigation by the telecom providers. Wireless communications has become affordable and ubiquitous. As a result, consumers have benefited in the form of lower prices, more technological features and greater choice.

[28] Because Mr. Teitzel's testimony goes into detail in this regard concerning Cox Communications offerings, I need only to note that phenomenon here. I would add, however, that other cable operators with operations in other states (e.g., Time Warner, Comcast, etc.) are similarly moving to provide similar packages of services beyond their traditional entertainment services.

> As we have seen, technology has been and will be the driving force behind innovation and choice in the telecom industry. Traditional telephone service may become a remnant of the past. VoIP is emerging as viable alternative for many consumers. . . . Another budding technology, Broadband over Power Lines (BPL) offers enormous promise because the electric power grid runs throughout America.
>
> In this docket [Docket No. T-00000I-04-0749], we must be cognizant that the FCC sets the stage for competition. . . .
>
> With the ever-changing tides in the telecom industry, regulatory uncertainty rules the day. Yet the Commission has the responsibility to maintain a competitive, level-paying field. . . .

Q. Is wireless telephony impacting the long distance market?

A. Yes. Indeed, the second most significant market change is the erosion of the distinction between wireline and wireless carriers in providing "long distance" capabilities to consumers. Consumers increasingly use their cellular phones to place long distance and local calls, instead of wireline phones. *InternetWeek.com* reports, in an article dated November 10, 2004, entitled "Wireless Gaining at the Expense of Wire-Line Service," that 60 percent of cellular phone users in U.S. households are making their long distance calls on their wireless handsets. In addition, the article notes that Yankee analyst, Kate Griffin, states that "We're seeing long distance as a standalone industry disappearing."[29] This wireless displacement is due, in part, to the disparate intercarrier compensation regimes that place traditional wireline interexchange carriers at a material, unfair cost disadvantage relative to their unregulated

[29] http://www.internetweek.com/story/showArticle.jhtml?articleID=52600678 A copy of the article is attached as DP-4.

wireless competitors. The FCC's 2004 annual Commercial Mobile Radio Service ("CMRS") competition report, documents that 97% of the U.S. population lives in a county with access to 3 or more competing carriers, compared to 95% the previous year and 88% in 2000. The number of subscribers increased from 141.8 million to 160.6 million during a 12-month period through the end of 2003. The nationwide penetration rate stands at 54%. Table 2 in that report shows that the number of wireless subscribers in Arizona grew to a whopping 2.8 million, up 13% over the 12-month period through the end of 2003.[30] By comparison there were 3.25 million wireline access lines at the end of 2003 for all Arizona LECs. Qwest was reported to have approximately 2.6 million of the Arizona access lines.[31]

Q. What other players are shaping the marketplace?

A. Another group of players now affecting the marketplace are the cable providers. Cable providers such as Cox are no longer merely offering entertainment services, but have upgraded their networks to offer broadband and in some cases, voice services to end users. It is my understanding that Cox offers a variety of services to end users in the Phoenix metropolitan area, including packages of digital cable, broadband cable modem, and voice telephony.

[30] Annual Report and Analysis of Competitive Market Conditions with Respect to Commercial Mobile Services," FCC 04-216, Released September 28, 2004 at 1-2 and Table 2.

[31] See, FCC Local Telephone Competition: Status as of December 31, 2003, Table 6 at http://www.fcc.gov/Bureaus/Common_Carrier/Reports/FCC-State_Link/IAD/lcom0604.pdf.

Q. The changes you have described are indeed dramatic. Beyond the elimination of the traditional "silos" are there yet additional market developments impacting the way consumers communicate?

A. Yes. I noted above that computer applications are now available permitting consumers to utilize the Internet for voice communications. In the recent past, entities such as Vonage and Skype have burst onto the scene. The only way to describe them is as "non-traditional" players, and the fact of their offerings presents yet another challenge for traditional regulatory philosophy and techniques.

Q. Why do you refer to these entities as "non-traditional players" and what is the significance to traditional regulation?

A. Entities such as Vonage and Skype represent a radical departure from the kinds of telecommunications service providers that have existed in the past. And while they provide a communications capability to end users, there is significant doubt as to whether they offer "telecommunications service," as defined in the Act. Indeed, in a Report to Congress, the FCC concluded that "computer-to-computer IP telephony" could not be seen as "pure telecommunications" by virtue of how the service is provided and used. That is, unlike traditional carriers who provide services over their networks, these non-traditional players simply provide a computer application (software), and individuals utilize that software with the computer hardware at their premises to place calls between two computers connected to the Internet.[32] It is the responsibility of the individual to obtain the

[32] *In the Matter of Federal-State Joint Board on Universal Service*, CC Docket No. 96-45, FCC 98-67 (Report to Congress), released April 10, 1998, ¶ 87.

broadband service – i.e., cable modem or DSL – over which the computer application operates.[33]

More recently, the FCC considered the question of whether such applications meet the statutory definition of "telecommunications."[34] Given the facts at issue in that context, the FCC concluded that:

> First, we conclude that FWD [Free World Dialup service] is not "telecommunications." Under the statute, the heart of "telecommunications" is transmission. As explained above, Pulver neither offers nor provides transmission to its members. Rather, FWD members "bring their own broadband" transmission to interact with the FWD service. At least one commenter has argued that FWD is telecommunications because FWD does not change the form or content of the information as sent and received. We disagree. FWD acts as a type of directory service, informing its members when fellow members are online or "present." Thus, even if FWD were providing transmission (which it is not), the information that FWD provides is not "information of the user's choosing, without change in the form or content of the information as sent and received." Instead, FWD provides new information: whether other FWD members are present; at what IP address a member may be reached; or, in some cases, a voicemail or an email response. Finally, the fact that Pulver's server is connected to the Internet via some form of transmission is not in and of itself, as some commenters argue, relevant to the definition of telecommunications. Pulver may "use" some telecommunications to provide its FWD directory service but that does not make FWD itself telecommunications.[35]

Taking the various factors into account, the FCC concluded as follows:

---

[33] The existence of Vonage or other VoIP providers does nothing whatsoever to eliminate the broadband duopoly that now exists for providing the underlying broadband pipe that any VoIP offering must ride. This testimony is not intended to address issues relating to regulation of – or premature deregulation of – the underlying broadband facility. Those are important issues that are currently being address at the federal level. My testimony is focused solely on the elimination of state regulatory asymmetries that distort retail competition in Arizona.

[34] *In the Matter of Petition for Declaratory Ruling that pulver.com's Free World Dialup is Neither Telecommunications Nor a Telecommunications Service*, WC Docket No. 03-45, Memorandum Opinion and Order, FCC 04-27, released February 19, 2004.

[35] Id., at ¶ 9 (internal footnotes omitted).

> We declare that pulver.com's (Pulver) Free World Dialup (FWD) offering to be an *unregulated information service* subject to the Commission's jurisdiction. In so doing, we remove any regulatory uncertainty that has surrounded Internet applications such as FWD. We formalize the Commission's policy of nonregulation to ensure that Internet applications remain insulated from unnecessary and harmful economic regulation at both the federal and state levels.[36]

And only last week, on November 9, 2004, the FCC ruled that certain Vonage DigitalVoice VoIP services are interstate services and preempted states from regulating those services.[37] The decision describes DigitalVoice as follows:

> DigitalVoice is a service that enables subscribers to originate and receive voice communications and provides a host of other features and capabilities that allow subscribers to manage their personal communications over the Internet.10 By enabling the sending and receiving of voice communications and providing certain familiar enhancements like voicemail, DigitalVoice resembles the telephone service provided by the circuit-switched network.[38]

Vonage claims it is redefining communications by offering consumers and small businesses an affordable alternative to traditional telephone service, and it claims to be the fastest growing telephony company in North America, with more than 300,000 lines in service and over 5 million calls per week made over its VoIP network.[39] According to the Vonage website addressing "availability of service," its service is now being offered in Phoenix, and is coming to Tucson.[40]

---

[36] Id., at ¶ 1 (emphasis added). On November 9, 2004, the FCC determined in another proceeding (WC Docket No. 03-211) that certain types of Internet telephony are not subject to traditional state public utility regulation.

[37] *In the Matter of Vonage Holdings Corporation Petition for Declaratory Ruling Concerning an Order of the Minnesota Public Utilities Commission*, WC Docket No. 03-211, Order FCC 04-267, released November 12, 2004.

[38] *Id.* ¶ 4, page 3.

[39] http://www.vonage.com/corporate/press_index.php?PR=2004_11_09_0.

[40] http://www.vonage.com/avail.php.

Entities such as Vonage, Skype and Pulver.com provide a communications capability to end users even though these entities are in no way subject to regulatory oversight by this Commission (and other regulatory bodies). The fact that these entities are not subject to regulatory oversight by states is important to this Commission's analysis of the regulatory framework that is appropriate (or not) for traditional wireline service providers such as Qwest.

Thus, even putting aside the wireless carriers discussed earlier, Arizonans have alternatives to voice services provided by traditional common carriers such as Qwest. For purposes of this proceeding, the fact that these entities – e.g., Pulver.com, Vonage, Skype – are in no way subject to regulatory oversight by the Arizona Commission is important.

Q. Are traditional players also impacted by these unavoidable forces?

A. Absolutely. The FCC recently observed both that IP networks are increasingly being used to carry voice communications and that traditional players such as Cox Communications, Qwest, Time Warner and Verizon have recently announced plans to offer VoIP services.[41] Additionally, SBC recently announced that it has signed a contract with Ford Motor Company that commits SBC to designing, implementing and managing a state-of-the art Internet Protocol telephony system fro Ford's headquarters and other Ford facilities. Once completed, the SBC/Ford project will be one of the nation's largest deployments

[41] Before the Federal Communications Commission, Notice of Proposed Rulemaking, WC Docket No. 04-36 pages 9 – 11. Released March 10, 2004 (*IP Enabled Services NRPM*). AT&T has also publicly announced at least one VoIP offering.

to date of VoIP technology.[42] It is becoming increasingly clear that not only are the "traditional players" impacted by these forces, they are embracing them.

Access Charges: Outdated, Anti-consumer, Anticompetitive and Unreasonably Discriminatory

Q. Would you please summarize MCI's position on access charges in the context of this proceeding?

A. Yes. In this section, I will provide a background discussion giving some of the history of access charges and highlight the public policy objectives behind their creation. I will show that, because of the massive changes that have taken place since divestiture, there is no longer any reasonable or principled basis on which to perpetuate a system of above-cost transfer payments where only one market participant – Qwest – benefits. I will discuss why the relief Qwest is seeking in this proceeding would in fact perpetuate a number of regulatory protections that inure solely to Qwest's benefit, to the detriment of Arizona consumers and to the health of competition in Arizona. In keeping with the spirit of the pricing flexibility that Qwest desires, the Commission should eliminate the most egregious of those regulatory protections and order Qwest to immediately reduce its switched access rates to cost.

[42] SBC Press Release, San Antonio, Texas, September 21, 2004.

Access Charge: a History

Q. What are access charges and for what purpose were access charges initially created?

A. Access charges are fees paid by long distance companies to local exchange carriers to use existing local facilities to originate and terminate long distance calls. Access charges are paid on both the originating and terminating end of long distance calls. On the originating end of a call, the long distance provider pays Qwest to carry the call from the calling party to the long distance provider's closest facility. On the terminating end, the long distance provider pays Qwest to carry the call from the long distance provider's closest facility to the called party's premises. Access charges are made up of different elements, but generally compensate Qwest for use of interoffice transmission (transport) facilities, local switching facilities, and the cost of the loop plant that connects to the calling and called parties' premises.

Access charges were created to replace a revenue stream that historically was generated by the Bell Companies' participation in the provision of retail long distance services as part of the vertically integrated monopoly. Although the FCC had been investigating the need for a new means of compensation for years, access charges for interstate calling were put in place coincident with the divestiture of the Bell Operating Companies from the Bell System on January 1, 1984. At about the same time, this Commission and other state regulators also established access charges for intrastate calling.

Access charges therefore became the means whereby Qwest (nee, US West – as well as its sibling ILECs) generated wholesale revenues that replaced the revenue streams obtained previously from the pre-divestiture separations and settlements and division of revenues processes.[43]

Q. What was the underlying public policy basis for setting access charges at the rate levels initially established?

A. In this context, it is important to recall that the circumstances surrounding the divestiture of the Bell Operating Companies meant that regulators were very much "operating in the dark" during that period. It would be a huge understatement to say that there were uncertainties as to the division of assets – both capital and operational -- between the companies.[44] Thus, the very fabric of the company this Commission had historically regulated was being ripped apart.

In a period of such turmoil, the tendency of regulators was to act conservatively. Understandably, a conservative approach translated into a hesitance to take any action that might have a dramatic, negative effect on local service rates. It was also recognized that the entity that would pay the lion's share of access charges would be the "new AT&T," and hindsight reveals that

---

[43] There are lengthy discussions of those processes in the FCC Orders in CC Docket 78-72 that implemented the access charge regime at the interstate level. Closer to home, the Arizona Corporation Commission reached that same conclusion in its Decision No. 54843, dated January 10, 1986, in Dockets E-1051-84-100, et al, at pages. 53-54. There, this Commission stated that the basis for the intrastate access rates that were established was to "compensate Mountain States during 1984 ... as if the previous separations and settlements agreements between ATTCOM and Mountain States had remained in effect."

[44] A Plan of Reorganization had been approved by the federal district court charged with overseeing the divestiture. The Plan of Reorganization provided numerous details as to division of assets, operational issues, and so on. Nonetheless, such a massive corporate restructuring had never before been attempted, much less accomplished.

regulators' bias was to give less weight to the potential impact on AT&T and more weight to the possible impacts on local service rates, and the viability of the newly-divested local exchange carriers themselves. More than anything, the public policy principle underlying the initial setting of access charges was to ensure the preservation of Universal Service.[45]

Implicit in the initial access charge decisions was the assumption that basic local service rates had historically been set at levels below the cost of providing those services, and that subsidies were therefore required from other services to maintain basic service rates at reasonable levels.

Q. Can you explain your statement that the notion of a required subsidy was based on an assumption?

A. Yes. In this context it is important to note that the analyses conducted by the Bell Operating Companies for rate case purposes have historically been based on their accounting records. Such analyses are referred to as "embedded cost" studies, and are not suited for determining whether a service requires a "subsidy." Regulators generally were not provided with the tools to assess whether service rates required a subsidy because the studies presented were incapable of answering the question. Economists use the term "subsidy" to refer to services that are priced at levels below their ***economic*** – rather than embedded -- cost. For purposes of this proceeding, total service long-run

[45] The term "universal service" is often used without a carefully defined meaning, and meaning is not always obvious even in context. That said, in a 1983 decision establishing the access charge framework, the FCC used the term "universal service" to mean a mechanism "enabling high cost local exchange companies to establish local exchange rates that do not substantially exceed local exchange rates charged by other local exchange companies." See, *In the Matter of MTS and WATS Market Structure*, CC Docket No. 78-72, phase I, Third Report and Order, released February 28, 1983, ¶ 3.

incremental cost ("TSLRIC") and economic costs are the same. Embedded cost studies are incapable of shedding light on the subsidy question. Further, the question of what constitutes the appropriate analysis of economic cost is one that is subject to debate.[46]

As discussed in the testimony of Qwest witness Ms. Million, there are various incremental cost analyses [e.g., long-run incremental cost ("LRIC"), TSLRIC, and total element long-run incremental cost ("TELRIC]")], to name a few.

As is demonstrated by Qwest's Arizona Summary of Recurring Costs, it is clear that Basic Residential Exchange Service[47] does not require a subsidy, because the service's rates cover its TSRLIC. It is also clear that in developing the TSLRIC for Basic Residential Exchange Service, Qwest allocated 100% of the local loop and 100% of the NTS-COE (Switch Port) to Basic Residential Local Exchange Service.[48] Therefore, Basic Residential Exchange Service in Arizona requires no subsidy from access charges or any other sources even when 100% of the local loop and 100% of the port is allocated solely to local residential service.

[46] Of course, even where there is agreement on the appropriate test to be used, there may be disagreement as to whether that test has been applied correctly.

[47] See, TKM-01, page 1, for Basic Exchange Service attached here as DP-2.

[48] See, TKM-01, page 1, for Basic Exchange Service TSLRIC attached here as DP-2 and Qwest's Response to WDA 02-027(a) and (c).

Access Charges: No Longer Justified

Q. You stated above that there is no longer any reasonable or principled basis on which to perpetuate a system of above-cost transfer payments that benefits only one market participant – Qwest. Please explain how the current system benefits only Qwest.

A. I discussed above at some length the rapid market changes in the telecommunications industry, and noted how Qwest is now providing retail toll services in competition with the traditional long distance companies. As described above, today's situation differs dramatically from when access charges were created, because Qwest now competes for the retail long distance business of its customers. The circumstances of the past – i.e., where Qwest relied on a wholesale revenue stream because it was prohibited from providing retail toll services -- no longer apply.

Quite simply, by permitting Qwest to charge above-cost rates to its competitors when it provides competing retail services is, at a minimum, unreasonably discriminatory. Furthermore, it creates the possibility of an anticompetitive price squeeze.

Q. Please explain the market distortions that result from the current situation.

A. The primary market distortion I am describing here results when MCI seeks to compete with Qwest in the provision of retail interexchange services in Arizona. When MCI or another interexchange carrier handles an in-state toll call between two Qwest end users, Qwest assesses Carrier Common Line charges ("CCLC")

for that call on both ends, for a total of more than 2 cents per minute.[49] This per-minute charge represents a real cost of service to MCI, but not to Qwest, and is unreasonably discriminatory because there can be no justification for providing an artificial advantage to Qwest in a competitive market. In other words, Qwest enjoys an artificial competitive advantage relative to every other provider that seeks to compete for such traffic.

And the CCLC is only one of several rate elements that Qwest charges to IXCs. Qwest is also permitted to levy a rate for switching – at both ends of the call -- that is above the cost that it incurs. The combined access rates that an IXC would pay for an intrastate call total more than 2.7 cents per minute at the originating end of the call.[50] The combined access rates for that intrastate call total more than 3.5 cents per minute at the terminating end.[51] These rates represent a real out-of-pocket cost that MCI or another IXC would incur, but do not reflect Qwest's "costs." The cost of switching that Qwest would incur when it handles interexchange traffic is significantly below the rates in Qwest's Access Service Price Cap Tariff.

For purposes of this proceeding, MCI is using the Qwest reciprocal compensation rate levels approved by the Commission in the earlier cost docket

[49] See, Qwest's Arizona Access PCPL Price Cap Price List, Sect. 3, page 11. Qwest's CCLC per originating minute is $0.006244, and the rate per terminating minute is $0.014153.

[50] Originating CCL ($0.006244) + originating local switching ($0.01730) + E. O. Port ($0.00130) + Interconnection Charge ($0.00245) = $0.0273 per originating minute. For simplicity of presentation, I have included no cost whatsoever for Qwest provided transport. Including transport would add between 5/100 and 5/10 cent per minute on each end of the call.

[51] Terminating CCL ($0.014153) + terminating local switching ($0.01730) + E. O. Port ($0.00130) + Interconnection Charge ($0.00245) = $0.0352 per terminating minute. See footnote 50 explaining the assumption to exclude transport rate elements from the calculation.

as proxies for Qwest's economic cost of providing those functions.[52] Thus, without needing to utilize material considered by Qwest to be confidential, for our purposes we will accept as Qwest's economic cost for switching an amount slightly more than 1/10th cent per minute, for each end of a call. Including the transport and tandem switching functions, Qwest's economic cost on each end of a call totals just under ¼ cent per minute. Taking the difference between the tariffed intrastate access rates and Qwest's economic cost of providing those functions, we see that the above-cost switched access rates provide to Qwest a significant, artificial and unreasonably discriminatory market advantage of at least 2.5 cents per originating minute of traffic and more than 3.3 cents per terminating minute of traffic.

If we look at this advantage on the basis of both ends of an intrastate call, Qwest is in the enviable position of having, ***at a minimum***, a 5.8 cent per minute artificial cost advantage over its IXC competitors. While it was inappropriate and unfortunate that Qwest was able to impose above-cost access charges on interexchange carriers throughout the 1990s, now that Qwest is actively providing ***retail*** interexchange services in direct competition with other IXCs in the wake of its section 271 approvals, it is now even more intolerable for Qwest to continue imposing these discriminatorily high charges on its competitors. In essence, Qwest's competitors are directly subsidizing its efforts to compete against them. These unwarranted and excessive access profits must be

[52] The Qwest reciprocal compensation rates can be compared with the cost studies presented by Qwest witness Million. Those studies are referenced in footnote 1, *supra.*

eliminated so that Qwest's competitors will not be artificially handicapped when competing with Qwest.

To put the unfair pricing anomalies into perspective, the retail rate for long distance offered on Qwest's website for the Qwest Choice™ Long Distance service is a ***maximum*** of 5 cents per minute.[53] Because MCI and any other interexchange carrier seeking to compete with Qwest would begin with ***at least*** the 5.8 cent per minute handicap I discussed above, there is literally no way for another provider to compete with Qwest's retail price. Stated differently, the unreasonably discriminatory access rate system guarantees that Qwest's margin on its retail toll business is at least 5.8 cents per minute[54] better than its competitors.

Outdated Access Charges and the Distorting Effects on Competition

Q. Is what you have described above what is sometimes referred to as a "price squeeze?"

A. Yes. Consider the pricing of the Qwest Choice™ Long Distance offering noted above, where the maximum per-minute price that an end user will pay is 5 cents.[55] Taking into account the Qwest retail rate and the minimum 5.8 cent per

[53] See, http://www.qwest.com/residential/products/qcld/index.html, visited on October 8, 2004. The website states that the consumer's maximum out of pocket cost is $20 per month, so if the volume of calls approached 400 minutes in a given month, Qwest's cost advantage would begin to increase to more than the average 3.7 cent per minute amount calculated above.

[54] Compare rates stated on DP-3, Qwest Response to ATT 01-024, with TSLRIC for Switch Access Service for CCLC and local. Switching and E.O. Port found on DP-2, TKM-01, at page 2.

[55] Qwest's website that describes the Qwest Choice™ Long Distance offering states that there are "no restrictions" on this service. From this, one might assume that Qwest anticipates a mix of in-state and

minute artificial cost advantage Qwest enjoys, the price squeeze can be shown using a simple example.

Price Table 1

Monthly Minutes Used by Customer	Retail rate per minute	Qwest's Cost per minute[56]	IXC's Cost per minute	Monthly Margin (Minutes times rate minus cost)
100	$ 0.05	$ 0.02		$ 3.00
100	$ 0.05		$ 0.08	($ 3.00)

As the example demonstrates, the artificial cost advantage Qwest is granted by charging its IXC competitors above-cost rates for in-state access enables Qwest to generate a profit of $3.00 per month for every end user customer who uses 100 minutes of in-state usage under the plan. Because of Qwest's artificial cost advantage, however, an IXC would experience a ***net loss*** of $3.00 on a customer with the same usage pattern – i.e., a customer whose usage is 100 minutes of in-state long distance. Because of this inequity, it is not profitable for an IXC to compete against Qwest for such customers.

Q. The previous example is hypothetical. Do you have an actual price squeeze example by Qwest in Arizona?

interstate calling by customers. Nonetheless, the pricing would apply for a customer whose usage was entirely intrastate.

[56] I have assumed here a 2 cent per minute cost to cover the cost of transporting the call, as well as all the administrative costs associated with the account, including billing, customer service, and so on. I have further assumed that the IXC incurs the same cost, but with the additional minimum 5.8 cent per minute cost disadvantage resulting from the Carrier Common Line and End Office Switching rate elements described previously.

A. Yes. Earlier this year, Qwest amended its Carrier Services contract with the State of Arizona by adding additional services, including long distance and toll-free voice services. The State's Carrier Services contract had expired with its vendors and, therefore, had to be renewed on an emergency extension. At about the same time, in response to a request for bid by the State's largest user, the Department of Administration, Qwest responded with rates that were accepted and are now in the Amendment to the State Carrier Services. The rates reflected in the Qwest Carrier Services contract are available to all State Agencies and sub-divisions.

As part of this contract award process, Qwest committed to providing in-state toll service to the state at the rate of 4.0 cents per minute for both ends. As demonstrated below using Qwest's actual switched access rates, the Qwest retail rate to the State constitutes a very real price squeeze. That is, the Qwest retail rate is below Qwest's switched access charges under its Arizona Price Cap Tariff.

Price Table 2

	Rate/Price
Switched Access – Originating	2.73¢
Switched Access – Terminating	3.52 ¢
Total Switched Access (both ends)	6.25 ¢
Qwest Retail Rate to State (both ends)	4.0 ¢

Table 2 demonstrates that a provider seeking to compete with Qwest for the State's intrastate toll business would pay Qwest 6 1/4 cents for use of Qwest's Arizona network at both ends of a call for CCLC, local switching, end office port and interconnection charge. In addition, the provider would also pay transport charges and/or tandem switching as well as multiplexing that are not included in the 6.25 cents cost in Table 2. However, Qwest's retail price for a call under the State of Arizona contract is significantly below what a competitor's out-of-pocket payments to Qwest would be, without even taking into account the competitor's own costs – such as the costs of its own network, cost of sales, billing, administrative, and so on. In other words, Qwest is today engaging in anticompetitive behavior by pricing retail services below its wholesale costs. It clearly is time for this Commission to acknowledge its role in permitting such abusive practices to occur and to remedy the situation by immediately lowering Qwest's intrastate rates to levels approximating economic cost. In so doing, the Commission will have signaled its intention to permit competitors to win or lose contracts on the merits of their operations, rather than on the basis of artificial regulatory distinctions that have long outlived their usefulness.

Access Charges: Wireless versus MCI

Q. One of the market forces you described above is the rapid growth in wireless services. Are wireless carriers subject to the same price squeeze you have described?

A. No. The above-cost in-state access rates that are the focus of my testimony do not apply to calls handled by wireless carriers. The compensation arrangement

between wireless carriers and Qwest for originating and terminating calls (both wireless-to-landline and landline-to-wireless) is very different from that applied to interexchange carriers. However, the functions performed by Qwest when furnishing access to and from wireline and wireless service providers are identical. In this case, charging different rates to different providers has artificially skewed the market for wireless and wireline long distance calling – to the clear and unfair disadvantage of traditional interexchange carriers. Moreover, charging different rates (that become a cost of business to the IXC or wireless provider) to different firms for the same service is, without a sound policy rationale, unreasonably discriminatory.

For wireless calls, rather than using Qwest's local calling areas to determine what is an "interexchange call," the intercarrier compensation is based on whether the call is within a Major Trading Area ("MTA") – which in the case of Arizona is virtually the entire state. I have provided as Exhibit DP-5 attached to this testimony a map generated by the FCC's Wireless Telecommunications Bureau that depicts the Major Trading Areas for the United States.[57] A call originated on a wireless phone and terminated by Qwest within "MTA 27" is subject to the cost-based reciprocal compensation rates established by this Commission. This translates into a cost to the wireless carrier of something less than 1/10th cent per minute to terminate such a call.[58] Comparatively, an IXC is required to pay Qwest compensation of more than 3.5 cents per minute for the

[57] As noted on Exhibit DP-5, the term Major Trading Area is based on material that is copyrighted by Rand McNally & Company.

[58] See, Qwest Response to ATT Data Request 01-011, Attachment A, attached hereto as DP-6.

terminating CCLC, local switching and end office port – an amount approximately 35 times what a wireless carrier pays for those same functions to terminate the call.[59]

The effect of this gross inequity is that consumers are provided with incorrect price signals to – substitute use of wireless phones in lieu of their wireline phone to make certain types of calls.[60] This substitution is apparently taking place in certain markets on a nationwide basis, due almost entirely to the incorrect pricing signals regulators have sent by continuing to levy above-cost access rates on one class of carrier – the IXC – that do not apply to their competitors, the wireless carriers. The Federal-State Joint Board Monitoring Report, released October 12, 2004 contains information quantifying the extent to which such substitution is occurring. That report contains a table (Table 1.2) on "Telecommunications Industry Revenue by Service," and from 1999 to 2002 wireless service revenues was up by 67.7 percent, compared to direct-dial toll services that were down by 30.5 percent over the same period.

Access Charges: Other Inequities

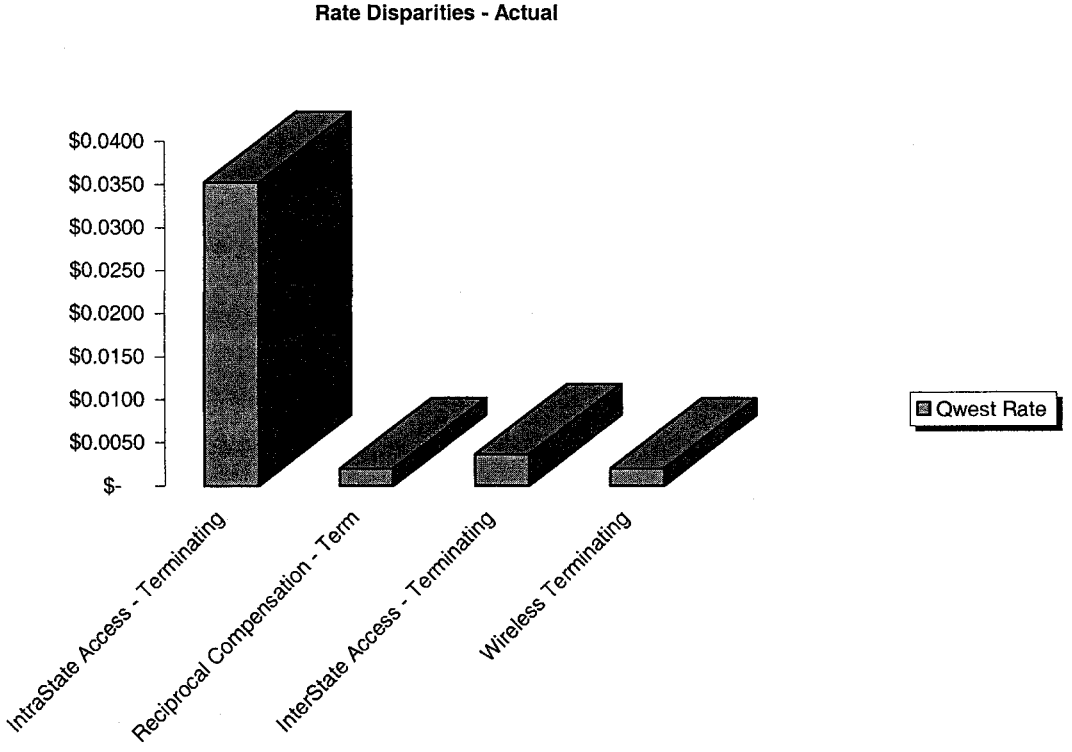
Q. What "other inequities" exist as a result of the outmoded and unsupportable access charge regime you describe?

A. The non-traditional service providers such as Vonage and Skype, by virtue of the way they offer services, are not subject to the above-cost in-state access rates

[59] As noted in footnote 51, the combined rate for terminating switched access without transport and other services, is $0.03275 or nearly 3.3 cents; whereas the reciprocal compensation rate for local switching charged to wireless carrier found on DP-6 is $0.0009695 or about 1/10th of a cent. (.03275/.0009695 = 33.78).

[60] See, page 19, lines 2 to 20, discussing the effects of substitution of wireless for long distance.

that IXCs must pay. There are at this time unanswered questions regarding whether such providers should pay some compensation for terminating calls to customers on the public switched telephone network – in other words, when their calls terminate in the same way as traditional intrastate toll calls handled by IXCs. Nonetheless, the market presence of such providers is a factor that the Commission must recognize. To graphically depict just how dramatic are the disparities I have described, the following chart compares the terminating charges that are paid for an IXC-handled intrastate call, a local call at reciprocal compensation rates, an IXC-handled interstate call, and a wireless intra-MTA call.



Imputation Tests Not Sufficient to Protect the Public

Q. In certain instances regulators have imposed imputation tests so as to avoid a price squeeze. Is that a reasonable means of resolving the situation you have described?

A. Taking into account the discussion above regarding the various negative impacts of above-cost access charges on retail competition in Arizona, we can easily see that imputation is not an effective remedy for such market disruptions. The Commission has no authority over the retail rates or inter-carrier charges for wireless providers, or the retail rates or inter-carrier charges of the non-traditional providers. Thus, the only effective remedy for the many market disruptions is to lower Qwest's intrastate access rates to their economic cost level.

Recall that one of the key features of a competitive market is to force all providers to operate as efficiently as possible, so that consumers reap the rewards of competitive pricing by efficient competitors. While an imputation test may address the price squeeze, imposing an imputation test frustrates the objective of forcing all providers to operate as efficiently as possible by establishing an artificially high cost floor – i.e., above the economic cost of providing the function – meaning that all providers are now operating inefficiently. The solution is to provide incentives to all providers to operate as efficiently as Qwest. The means to accomplish that is to eliminate the artificial cost advantage

that Qwest enjoys by reducing access charges to levels approximating economic cost.[61]

Q. You began this discussion by noting that the current situation of above cost access rates is a system of transfer payments that benefits only Qwest. What other reasons beyond the price squeeze inure solely to Qwest's benefit?

A. As noted above, when access charges were initially established, Qwest was legally foreclosed from providing services other than traditional monopoly voice telephony services within its service territories. Those barriers to Qwest's participation in other lines of business have been eliminated, and Qwest now provides other services over its local loop plant, such as DSL-based Internet access and entertainment (Qwest Choice™ TV). That Qwest can now tap into entirely new revenue streams that did not exist in the past when the current access charge regime was established completely invalidates another of the underlying reasons for retaining access charges at above-cost levels.

Access Charges and "Real Deregulation"

Q. You stated at the outset of your testimony that the competitive alternatives that exist and/or are emerging create a basis for "fundamental changes to the regulatory framework" far beyond what Qwest proposes. Please explain what you mean.

A. To explain, I will draw a contrast with the testimony of Qwest witness David Teitzel. In the executive summary of his testimony, Mr. Teitzel states that

[61] I noted at page 9 above the fact of declining costs due to improvements in technology, a fact that Qwest itself acknowledged. When that fact is considered in the context of Qwest continuing to charge above-cost intrastate access rates, the effect is that margins increase with declining costs, but only Qwest enjoys the financial benefit.

because of the changes in the "telecommunications landscape in Arizona," regulation "must be adjusted." He then goes on to describe a series of changes that, as to Qwest, would constitute "relaxed regulation" so that Qwest would enjoy "the same ability to promote its products and services as that afforded its competitors.

By the terms used in his testimony, Mr. Teitzel would appear to describe incremental changes to the regulatory tools applied by the Commission. But such "adjustments" should be seen for what they are: one-sided changes that provide benefits to Qwest, while at the same time preserving legacy regulatory protections to which Qwest should no longer be entitled. Stated differently, deregulation should not be seen as synonymous with passively permitting Qwest to have greater flexibility in offering and pricing its services. To the contrary, the new environment requires that the Commission ***actively dismantle*** the numerous artificial protections that Qwest continues to enjoy as a result of its history as a regulated entity.

What this means is that any company claiming to espouse pricing flexibility or deregulation should as part of that assume the ***risk*** that goes along with being a competitive operation. Companies such as MCI operate without the kinds of protections from competitive risk that Qwest enjoys as a part of its regulated legacy. For example, numerous Wall Street analyst reports have noted over the past two years the continuing price weakness besetting the traditional long distance carriers. In that highly competitive segment, consumers aggressively price shop and carriers have no choice but to reduce rates to retain

their customers' business. Qwest, on the other hand, is in the enviable position of continuing to charge intrastate switched access rates that are significantly above cost with no concern whatsoever for "market conditions." For switched access, the rates Qwest charges is an abuse of monopoly power, plain and simple.[62] If Qwest is to be considered and treated as a "competitive" firm, then it should do so without the benefit of traditional regulatory protections, including government-mandated and approved subsidy payments – including those inherent in the above-cost access charge regime – a benefit none of Qwest's competitors enjoy.

Q. In your opinion, is Qwest protected by traditional regulatory policy and programs in Arizona?

A. Yes.

Q. Please explain.

A. Reform of the current system of intrastate access charges in Arizona is necessary to remove substantial contribution well above Qwest's economic cost of providing the functions for Arizona intrastate switched access,[63] These above-cost charges have been too long tolerated by the legacy regulatory regime, and

[62] See, Direct Testimony of William Dunkel, in Docket No. T-01051B-99-0105, dated September 2000, attacking Ramsey Pricing wherein he states: "Under Ramsey Pricing those services have the most inelastic demand (i.e. monopoly services) are forced to recover a greater share of the shared, joint and common costs of the firm so that those services with more elastic demand (i.e. competitive services) contribute very little toward shared, joint and common costs of the firm." Quoting economist William J. Baumol, Mr. Dunkel cited a passage which further states "this [Ramsey Pricing] places the burden upon those customers who have no place else to go, whose demands are inelastic because they have no real alternative." And he finally noted that the FCC had rejected Ramsey Pricing in the Local Competition Order; at page 38, line 1 through page 39, line 14.

[63] See, Direct Testimony of Teresa K. Million, Exhibit TKM-01 attached as DP-2.

such charges are in no way appropriate in a more competitive market. This issue is the subject of Docket No. T-0000D-00-0672 which I understand has been consolidated with Qwest's Pricing Flexibility proceeding.

Qwest's Non-Proposal for Access Charge Reform

Q. Does Qwest propose to "reform" switched access rates in Arizona in this proceeding?

A. No. Qwest's recommendation on switched access reform is to do nothing at this time "because of sweeping changes to the entire intercarrier compensation issue being considered by the FCC and the industry."[64]

Q. Does Qwest offer an alternate proposal on switched access reductions?

A. Not really. Instead Qwest witness Scott McIntyre in his Direct Testimony invites this Commission "to provide [Qwest with] a plan on how to recover the revenue currently provided by Switched Access." He provides an example of one possible solution that would impose an intrastate subscriber line charge to offset Qwest's revenue losses if switched access rates are reduced to the same levels as its interstate rates.[65] Again, by taking a position that it is entitled to "revenue neutrality," Qwest is seeking regulatory protection from this Commission that is diametrically opposite its deregulatory and competition rhetoric.

[64] Direct Testimony of Scott A. McIntyre, page 14, line 22 –page 15, line 1.

[65] Direct Testimony of Scott A. McIntyre, page 15, line 22- page 16, line 3.

Q. Is Qwest's proposal consistent with other public statements made by the Qwest family of companies?

A. No. One of Qwest's companies is Qwest Communications Corporation ("QCC"), a Qwest Corporation Section 272 affiliate that is also a CLEC regulated by this Commission (T-02811B).[66] QCC has also been joined as also a party in this proceeding. In Comments of Qwest Communications Corporation filed on September 28, 2004, in a Rulemaking 03-08-018 before the California Public Utilities Commission, QCC stated:

> Proposals at the Federal Level should **expedite** access charge reductions in California, not delay such reform. . . . The [California] Commission's failure to finish this Phase I a timely manner has **prejudiced** the market towards other technologies. (Emphasis supplied.)[67]

Q. Is the QCC recommendation in the California proceeding consistent with Qwest Corporation's recommendations in this proceeding?

A. Absolutely not.

Q. Has MCI sought relief on switched access charges from this Commission in the past?

A. Indeed it has, and a brief history of MCI's efforts in this regard is appropriate here. On April 18, 1997, MCI filed a complaint against Qwest (then US WEST) contending that Qwest's access charges were unlawful, unjust, unreasonable and discriminatory. MCI maintained that access should be priced at economic cost. The Commission agreed that access charges were not set at their economic levels, but concluded that any adjustment must be done as part of an

[66] See Decision No. 66612 and http://www.cc.state.az.us/utility/utility_list/CLEC_list.pdf

[67] *Order Instituting Rulemaking to Review Policies Concerning Intrastate Carrier Access Charge,* Rulemaking 03-08-018, at pages 1 and 2. A copy of these comments is attached as Exhibit DP-7.

overall review of Qwest's rates. Thus, MCI's complaint was dismissed by the Commission with the promise that access charges would be reviewed in Qwest's next rate case. Significantly, the Commission also held that ". . . the pricing of access charges should be taken into consideration as part of any request by US WEST to enter into Arizona's interLATA toll market."[68]

At the August 22, 2000 Open Meeting, former Chairman Kunasek requested an investigation into whether access charges for Arizona utilities reflect the cost of access. A docket was opened on September 5, 2000 (Docket No. T-00000D-00-0672), but it was suspended by a July 8, 2002 Procedural Order.

On March 30, 2001, in the Qwest rate case filed after MCI's 1997 access complaint was dismissed, the Commission, as part of a global settlement, approved a minimal access charge reduction ($5 million per year) and stated that it was the intention of the Commission to continue to reduce intrastate access charges to interstate levels.[69] Despite this minimal reduction, no significant evaluation of intrastate access charges was undertaken. Instead, the Commission concluded that access charge issues should be addressed in a generic docket. The Commission also ordered Staff to open a docket on the related topic of imputation. While MCI opposes as an ineffective solution to high

[68] A.C.C. Decision No. 60596, January 14, 1998.

[69] A.C.C. Decision No. 63487, March 30, 2001 and Settlement Agreement, Attachment A, Section 3(d), wherein it states in pertinent part that: An exception includes Intrastate Switched Access Services which are to be reduced by $5 million per year for the duration of the initial term of the Plan, with further reductions in Intrastate Switched Access Service rates taking place during any subsequent term of the Price Cap Plan with the objective of obtaining parity with interstate switched access rates.

intrastate switched access rates[70], absent pricing intrastate switched access near economic cost, imputation has become a regulatory tool. The imputation investigation mandated in Decision No. 63487 has never been conducted.

The access charge issue was raised again at the September 19, 2003 Open Meeting at which a grant of Qwest's 271 application was recommended to the FCC. Chairman Spitzer, after listening to price squeeze concerns, requested an expedited investigation of access charges.[71] As a result, the previously suspended access charge investigation (Docket No. T-00000D-00-0672) was reactivated.

Thus, despite MCI's (and other interexchange carriers') repeated attempts to have the Commission address switched access charge issues, no comprehensive, significant access charge case has been conducted in Arizona. Despite the Commissioner's direction in Decision 60596 that access charges be evaluated as part of any request by Qwest to enter the long distance market, Qwest was granted such entry without such an investigation.

Q. This Commission has for years heard claims by interexchange carriers such as MCI that reform of the system of intrastate access charges in Arizona is necessary. Why is it necessary to address the issue now?

A. Twenty years after the breakup of the Bell System, the telecommunications industry is changing at a light-speed pace. The stand-alone long distance and stand-alone local consumer markets are eroding as the industry sees rate

[70] See, page 40 beginning with section entitled Imputation Tests Not Sufficient to Prevent Price Squeeze Behavior.

[71] See, Transcript from Special Open Meeting held on September 19, 2003, in Docket No. T-00000A-97-0238, at page 97, lines 23-25, page 98, lines 12-25.

compression, and increasing substitution of wireless phones, Instant Messaging, pre-paid calling cards and e-mail.[72] That erosion will continue to result in less switched access revenues for traditional carriers such as Qwest, other incumbent local exchange carriers ("ILECs") and competitive local exchange carriers ("CLECs"). The erosion will also result in reduced contribution by interexchange carriers ("IXCs") to the Arizona Universal Service Fund because IXC contributions are based upon retail intrastate toll revenues.[73]

In addition, consumers are increasingly looking for bundles of services, not just local and long distance, but local, long distance, wireless, broadband, entertainment and more. The convergence of voice and data, the rapid introduction of applications that use Internet protocol (or otherwise use the Internet) to transmit streaming audio and video that now enable two-way voice communications over the Internet (so-called "Voice over Internet Protocol" or "VoIP"), as well as the potential for WiMAX and Broadband over Power Lines ("BPL") are rapidly contributing to the decline of the "traditional" voice market. As

---

[72] For example, by the end of 1999, the volume of e-mails in this country surpassed the pieces of mail handled by the U.S. Postal Service. See "Messaging Online," February 4, 2000, http://www.sims.berkely,edu/reasearch/projects/how-much-info/internet/emaildetails.html. At the same time, it was estimated that the number of e-mail accounts in the U.S. reached 225 million, a number exceeding the number of end user telephone lines reported by the FCC or 189 million. See "Newsbytes," April 5, 200, http://www.computeruser.com/clickit/printout/news/32983956000204192O.html.

[73] AUSF Rule R 14-2-1204(b)(2) which provides that: "Category 2 - Providers of intrastate toll service, or other service providers as permitted under R14-2-1204(B)(3), shall be considered providers of Category 2 service and shall be assessed AUSF charges as follows:

> a. One-half of the AUSF funding requirement will be collected through Category 2 service providers. The Category 2 AUSF assessment will be based on total Arizona intrastate toll revenue, and assessed as a percent of revenue. The percent of revenue assessment to be in place during a given year will be calculated by the Administrator using the annual Arizona intrastate revenue for all Category 2 service providers for the previous year.

a result of these technological and industry trends, traditional wireline carriers are now facing retail competition, as described by Qwest, not just among themselves and from wireless carriers[74], but from non-traditional carriers, such as cable companies[75], VoIP providers[76], and soon even voice applications offered by other providers such as ISPs and through BPL. The emergence of new, nontraditional carriers necessitates fundamental changes in state retail regulation.

Convergence and the proliferation of broadband services are ushering in a new era in communications, in which traditional carriers and nontraditional voice application providers compete for customers (both consumer and business). The lines between local and long distance, and intrastate and interstate jurisdiction, are becoming blurred and are of little or no significance in the marketplace, as evidenced by the FCC's recent decision in the Vonage order addressing VoIP released November 12, 2004.[77] Regulated carriers compete head-to-head with unregulated carriers for the same customers. These competitive forces from non-regulated providers give policy makers no choice but to rethink how the industry is and should be regulated.

[74] Direct Testimony of David L. Teitzel, filed in these proceedings, pages 56 - 62.

[75] Direct Testimony of David L. Teitzel, filed in these proceedings, pages 10 - 20.

[76] Direct Testimony of David L. Teitzel, filed in these proceedings, pages 62 - 68.

[77] See footnote 37, *supra*.

Recommendation and Conclusion

Q. In the previous sections of your testimony you have described various unavoidable forces affecting the choices available to consumers, the ability of customers to obtain services from "non-traditional" providers, and the impact of Qwest's ability to compete in the retail provision of long distance services and impose a price squeeze on its interexchange carrier competitors. Taking all this into account, what is your recommendation to this Commission?

A. This Commission should reduce Qwest's switched access rates to the same levels as reciprocal compensation which, as discussed earlier, would eliminate the unreasonable discrimination both between wireless providers and IXCs such as MCI and between Qwest and IXCs. The functions of switched access and traffic transport and termination are exactly the same, and the reciprocal compensation rates established by this Commission are based on Qwest-specific cost studies and are thus fully compensatory.

The outcome I am recommending is consistent with Commissioner Mundell's October 15, 2004 letter and the responses of Chairman Spitzer and Commission Hatch-Miller, who agreed that "communications" is a broader market in which many traditional and nontraditional players participate. Regulation imposed on traditional carriers -- while non-traditional carriers are virtually unregulated (and immune from state regulation as a "public utility") – affects various providers asymmetrically, providing either artificial advantages or disadvantages in the retail marketplace.

It is clearly appropriate to remove the underbrush of traditional state retail regulations where such regulations no longer are necessary – both for Qwest as well as other wireline service providers. It would not be consistent with the spirit

of deregulation for the Commission to permit Qwest to escape the "burdens" of regulation without also requiring that Qwest no longer be permitted to enjoy the "benefits" of regulation -- benefits designed for an era that no longer exists by Qwest's own admission. Rather, for regulatory purposes, all competitors should face what participants in competitive markets generally face – the risks associated with market success or failure, without the prospect of benefiting from any regulatory guarantees of revenues. Real deregulation means that companies seeking to compete openly in the marketplace should be free of regulatory constraints as well as regulatory protections.[78]

The Commission needs to act now in this current access charge proceeding, opened over four years ago, to consider an issue with a long history of neglect. It should immediately eliminate the Qwest's admittedly non-cost based common carrier line charges for originating and terminating traffic and reduce the other access charge elements to approximate the forward-looking economic cost. The Commission must begin here to rationalize and harmonize all intercarrier compensation schemes within its jurisdiction and eliminate the inequities and competitive market distortions they now cause.

Q. Does this conclude your testimony?

A. Yes, at this time.

[78] Although it may not be possible for the Commission to accomplish it in this proceeding, the Commission expeditiously should seek to eliminate unnecessary regulations imposed on traditional wireline providers such as interexchange carriers. For example, the Commission should consider detariffing all retail offerings and eliminating service quality and other reporting requirements.

EXHIBIT LIST

DP-1	Curriculum Vita of Don Price
DP-2	PROPRIETARY: Direct Testimony of Teresa K. Million, Proprietary Exhibit TKM-01. Docket nos. T-01051B-03-0454 and T-00000D-00-0672
DP-3	Qwest Response to AT&T Data Request 01-024, Attachment A. Docket No. T-00000D-00-0672
DP-4	*Internetweek.com*, 11/10/04, "Wireless Gain At the Expense Of Wire-Line Service"
DP-5	FCC's Wireless Telecommunications Bureau map: The 51 Major Trading Areas (MTAs)
DP-6	Qwest Response to AT&T Data Request 01-011, Attachment A. Docket No. T-00000D-00-0672
DP-7	Qwest Comments on the Reopening of Phase I, *Order Instituting Rulemaking to Review Policies Concerning Intrastate Carrier Access Charges*, R.03-08-018, filed September 28, 2004 with the California Public Utilities Commission

DON PRICE
ACADEMIC AND PROFESSIONAL QUALIFICATIONS, AND TESTIMONY PRESENTED BEFORE REGULATORY AGENCIES

Academic Background:

My academic background is in the social sciences. I received my Bachelor of Arts degree in Sociology from the University of Texas at Arlington May of 1977 and was awarded a Master of Arts degree in Sociology by the University of Texas at Arlington in 1978.

Professional Qualifications:

From January 1979 until October, 1983, I was employed by the Southwest telephone operating company of GTE where I held several positions of increasing responsibility in Economic Planning. In those positions I became quite familiar with such local exchange telephone company functions as the workings and design of the local exchange network (including both switching and outside plant), the network planning process, the operation of a business office, and the design and operation of large billing systems.

From November 1983 until October 1986, I was employed by the Public Utility Commission of Texas. I provided analysis and expert testimony on a variety of policy and rate setting issues. In 1986 I was promoted to Manager of Rates and Tariffs, and was directly responsible for staff analyses of rate design and tariff policy issues in all telecommunications proceedings before the PUC.

I have been with MCI for eighteen years, during which time my primary functions have focused entirely on public policy issues relating to competition in telecommunications markets. Beginning with MCI's acquisition of Western Union Access Transmission Services in 1993, my responsibilities have involved policy issues pertaining to local competition. I have been involved with contract negotiations for interconnection agreements both before and subsequent to passage of the 1996 Telecommunications Act, and have presented testimony on the company's policy positions in numerous state

arbitrations. In my present position I have broad responsibilities in developing, coordinating, and communicating MCI's public policy positions. Those responsibilities require that I work closely with MCI's regulatory and government affairs teams, as well as with marketing and sales forces, departments involved in network architecture, planning, and operations, and other departments involved in every aspect of the Company's business operations.

I have appeared as a panelist before various professional and trade associations and public seminars during my professional career, including the Texas Society of CPAs, the University of Texas Department of Electrical and Computer Engineering Telecommunications Conference, the Alabama Telephone Association, the Arkansas Telephone Association, and the National Association of Regulatory Utility Attorneys.

I have testified before a number of commissions, including the Federal Communications Commission, the Arizona Corporation Commission, the Public Service Commission of Arkansas, the California Public Utilities Commission, the Public Service Commission of Florida, the Georgia Public Service Commission, the Illinois Commerce Commission, the Kansas Corporation Commission, the Public Service Commission of Kentucky, the Louisiana Public Service Commission, the Minnesota Public Utilities Commission, the Missouri Public Service Commission, the Public Utilities Commission of Nevada, the North Carolina Utilities Commission, the Public Utilities Commission of Ohio, the Corporation Commission of the State of Oklahoma, the Public Utility Commission of Oregon, the Public Service Commission of South Carolina, the Tennessee Regulatory Authority, the Public Utility Commission of Texas, and the Washington Utilities and Transportation Commission. A list of those proceedings in which I have furnished testimony is provided below.

Testimony Presented:

FCC

CC Docket No. 00-4: In the Matter of Application by SBC Communications, Inc., Southwestern Bell Telephone Company, and Southwestern Bell Communications Services, Inc. d/b/a Southwestern Bell Long Distance for Provision of In-Region, InterLATA Services in Texas

Arkansas

Docket No. 91-051-U: IN RE IMPLEMENTATION OF TITLE IV OF THE AMERICANS WITH DISABILITIES ACT OF 1990

Docket No. 92-079-R: IN THE MATTER OF A PROCEEDING FOR THE DEVELOPMENT OF RULES AND POLICIES CONCERNING OPERATOR SERVICE PROVIDERS

Arizona

Docket No. T-00000A-97-238: IN THE MATTER OF U S WEST COMMUNICATIONS, INC.'S COMPLIANCE WITH SECTION 271 OF THE TELECOMMUNICATIONS ACT OF 1996

Docket No. T-00000D-00-0672: IN THE MATTER OF INVESTIGATION OF THE COST OF TELECOMMUNICATIONS ACCESS

California

APPLICATION 01-01-010: APPLICATION BY PACIFIC BELL TELEPHONE COMPANY (U 1001 C) FOR ARBITRATION OF AN INTERCONNECTION AGREEMENT WITH MCIMETRO ACCESS TRANSMISSION SERVICES, L.L.C. (U 5253 C) PURSUANT TO SECTION 252(B) OF THE TELECOMMUNICATIONS ACT OF 1996

RULEMAKING R.93-04-003, INVESTIGATION I.93-04-002: ON THE COMMISSION'S OWN MOTION TO GOVERN OPEN ACCESS TO BOTTLENECK SERVICES AND ESTABLISH A FRAMEWORK FOR NETWORK ARCHITECTURE DEVELOPMENT OF DOMINANT CARRIER NETWORKS; INVESTIGATION ON THE COMMISSION'S OWN MOTION INTO OPEN ACCESS AND NETWORK ARCHITECTURE DEVELOPMENT OF DOMINANT CARRIER NETWORKS

Colorado

Docket No. 02A-538T: IN THE MATTER OF THE JOINT APPLICATION FOR APPROVAL OF A PLAN TO RESTRUCTURE REGULATED INTRASTATE SWITCHED ACCESS RATES AND PETITION FOR A DECLARATORY ORDER

Florida

Docket No. 941272-TL: IN RE: SOUTHERN BELL TELEPHONE AND TELEGRAPH COMPANY'S PETITION FOR APPROVAL OF NUMBERING PLAN AREA RELIEF FOR 305 AREA CODE

Docket No.950696-TP: IN RE: DETERMINATION OF FUNDING FOR UNIVERSAL SERVICE AND CARRIER OF LAST RESORT RESPONSIBILITIES.

Docket No. 950737-TP: IN RE: INVESTIGATION INTO TEMPORARY LOCAL TELEPHONE NUMBER PORTABILITY SOLUTION TO IMPLEMENT COMPETITION IN LOCAL EXCHANGE TELEPHONE MARKETS.

Docket No. 950984-TP: IN RE: RESOLUTION OF PETITION(S) TO ESTABLISH NON-DISCRIMINATORY RATES, TERMS, AND CONDITIONS FOR RESALE INVOLVING LOCAL EXCHANGE COMPANIES AND ALTERNATIVE LOCAL EXCHANGE COMPANIES PURSUANT TO SECTION 364.162, FLORIDA STATUTES.

Docket No. 950985-TP: IN RE: RESOLUTION OF PETITION(S) TO ESTABLISH NON-DISCRIMINATORY RATES, TERMS, AND CONDITIONS FOR INTERCONNECTION INVOLVING LOCAL EXCHANGE COMPANIES AND ALTERNATIVE LOCAL EXCHANGE COMPANIES PURSUANT TO SECTION 364.162, FLORIDA STATUTES.

Docket No. 000649-TP: IN RE: PETITION OF MCIMETRO ACCESS TRANSMISSION SERVICES, LLC AND MCI WORLDCOM COMMUNICATIONS, INC. FOR ARBITRATION OF CERTAIN TERMS AND CONDITIONS OF PROPOSED AGREEMENT WITH BELLSOUTH TELECOMMUNICATIONS, INC. CONCERNING INTERCONNECTION AND RESALE UNDER THE TELECOMMUNICATIONS ACT OF 1996.

Georgia

Docket No. 5548-U: IN RE: INVESTIGATION INTO THE FUNDING OF UNIVERSAL SERVICE.

Docket No. 6537-U: IN THE MATTER OF: MCIMETRO PETITION TO ESTABLISH NONDISCRIMINATORY RATES, TERMS AND CONDITIONS FOR UNBUNDLING AND RESALE OF LOCAL LOOPS.

Docket No. 11901-U: IN RE: PETITION OF MCIMETRO ACCESS TRANSMISSION SERVICES, LLC AND MCI WORLDCOM COMMUNICATIONS, INC. FOR ARBITRATION OF CERTAIN TERMS AND CONDITIONS OF PROPOSED AGREEMENT WITH BELLSOUTH TELECOMMUNICATIONS, INC. CONCERNING INTERCONNECTION AND RESALE UNDER THE TELECOMMUNICATIONS ACT OF 1996.

Illinois

Docket No. 04-0469: PETITION FOR ARBITRATION OF INTERCONNECTION RATES, TERMS AND CONDITIONS AND RELATED ARRANGEMENTS WITH ILLINOIS BELL TELEPHONE COMPANY PURSUANT TO SECTION 252(b) OF THE TELECOMMUNICATIONS ACT OF 1996.

Kansas

Docket No. 190,492-U: IN THE MATTER OF A GENERAL INVESTIGATION INTO COMPETITION WITHIN THE TELECOMMUNICATIONS INDUSTRY IN THE STATE OF KANSAS

Docket No. 02-GIMT-678-GIT: IN THE MATTER OF A GENERAL INVESTIGATION INTO WINBACK/RETENTION PROMOTIONS AND PRACTICES

Louisiana

Docket No. U-17957: IN RE: INVESTIGATION OF OPERATING PRACTICES OF ALTERNATIVE OPERATOR SERVICES PROVIDERS TO INCLUDE RATES AND CHARGES.

Docket No. U-19806: IN RE: PETITION OF AT&T COMMUNICATIONS OF THE SOUTH CENTRAL STATES, INC., FOR REDUCED REGULATION OF INTRASTATE OPERATIONS.

Docket No. U-20237: IN RE: OBJECTIONS TO THE FILING OF REDUCED WATS SAVER SERVICE RATES, INTRALATA, STATE OF LOUISIANA.

Docket No. U-20710: IN RE: GENERIC HEARING TO CLARIFY THE PRICING/IMPUTATION STANDARD SET FORTH IN COMMISSION ORDER NO. U- 17949-N ON A PROSPECTIVE BASIS ONLY, AS THE STANDARD RELATES TO LEC COMPETITIVE TOLL OFFERINGS.

Docket No. U-20883: IN RE: THE DEVELOPMENT OF RULES AND REGULATIONS APPLICABLE TO THE ENTRY AND OPERATIONS OF, AND THE PROVIDING OF SERVICES BY, COMPETITIVE AND ALTERNATE ACCESS PROVIDERS IN THE LOCAL, INTRASTATE AND/OR INTEREXCHANGE TELECOMMUNICATIONS MARKET IN LOUISIANA. SUBDOCKET A: UNIVERSAL SERVICE.

Docket No. U-25350: IN RE: PETITION OF MCIMETRO ACCESS TRANSMISSION SERVICES, LLC FOR ARBITRATION OF CERTAIN TERMS AND CONDITIONS OF PROPOSED AGREEMENT WITH BELLSOUTH TELECOMMUNICATIONS, INC. CONCERNING INTERCONNECTION AND RESALE UNDER THE TELECOMMUNICATIONS ACT OF 1996.

Minnesota

Docket No. P-421/CI-01-1371: IN THE MATTER OF A COMMISSION INVESTIGATION INTO QWEST'S COMPLIANCE WITH SECTION 271(c)(2)(B) OF THE TELECOMMUNICATIONS ACT OF 1996; CHECKLIST ITEMS 1, 2, 4, 5, 6, 11, 13, AND 14

Missouri

Case No. TO-87-42: IN THE MATTER OF SOUTHWESTERN BELL TELEPHONE COMPANY FILING ACCESS SERVICES TARIFF REVISIONS AND WIDE AREA TELECOMMUNICATIONS SERVICE (WATS) TARIFF, INDEX, 6th REVISED SHEET, ORIGINAL SHEET 16.01.

Missouri (continued)

Case No. TO-95-289, ET AL: IN THE MATTER OF AN INVESTIGATION INTO THE EXHAUSTION OF TELEPHONE NUMBERS IN THE 314 NUMBERING PLAN AREA.

CASE NO. TC-2000-225, ET AL.: MCI WORLDCOM COMMUNICATIONS, INC., BROOKS FIBER COMMUNICATIONS OF MISSOURI, INC., BROADSPAN COMMUNICATIONS, INC., D/B/A PRIMARY NETWORK COMMUNICATIONS, INC., COMPLAINANTS, VS. SOUTHWESTERN BELL TELEPHONE COMPANY, RESPONDENT.

CASE NO. TO-2001-467: IN THE MATTER OF THE INVESTIGATION OF THE STATE OF COMPETITION IN THE EXCHANGES OF SOUTHWESTERN BELL TELEPHONE COMPANY.

CASE No. TO-2002-222: PETITION OF MCImetro ACCESS TRANSMISSION SERVICES LLC, BROOKS FIBER COMMUNICATIONS OF MISSOURI, INC. AND MCI WORLDCOM COMMUNICATIONS, INC. FOR ARBITRATION OF AN INTERCONNECTION AGREEMENT WITH SOUTHWESTERN BELL TELEPHONE COMPANY UNDER THE TELECOMMUNICATIONS ACT OF 1996

CASE Nos. TT-2002-472 and TT-2002-473: IN THE MATTER OF SOUTHWESTERN BELL TELEPHONE COMPANY'S TARIFF FILING TO INITIATE RESIDENTIAL CUSTOMER WINBACK PROMOTION; AND IN THE MATTER OF SOUTHWESTERN BELL TELEPHONE COMPANY'S TARIFF FILING TO EXTEND BUSINESS CUSTOMER WINBACK PROMOTIONS

Nevada

CASE NO. 01-12047: IN RE: APPLICATION OF CENTRAL TELEPHONE COMPANY - NEVADA d/b/a SPRINT OF NEVADA TO CONTINUE PARTICIPATION IN THE PLAN OF ALTERNATIVE REGULATION, INCLUDING A REQUEST TO INCREASE PRICES

DOCKET NO. 01-12047: IN RE APPLICATION OF CENTRAL TELEPHONE COMPANY - NEVADA D/B/A SPRINT OF NEVADA TO CONTINUE PARTICIPATION IN THE PLAN OF ALTERNATIVE REGULATION, INCLUDING A REQUEST TO INCREASE PRICES.

North Carolina

Docket No. P-100, SUB 119: IN THE MATTER OF: ASSIGNMENT OF N11 DIALING CODES.

North Carolina (continued)

Docket No. P-141, SUB 29: IN THE MATTER OF: PETITION OF MCI TELECOMMUNICATIONS CORPORATION FOR ARBITRATION OF INTERCONNECTION WITH BELLSOUTH TELECOMMUNICATIONS, INC.

Docket No. P-474, SUB 10: IN RE: PETITION OF MCIMETRO ACCESS TRANSMISSION SERVICES, LLC FOR ARBITRATION OF CERTAIN TERMS AND CONDITIONS OF PROPOSED AGREEMENT WITH BELLSOUTH TELECOMMUNICATIONS, INC. CONCERNING INTERCONNECTION AND RESALE UNDER THE TELECOMMUNICATIONS ACT OF 1996.

Ohio

Docket No. 01-1319-TP-ARB: IN THE MATTER OF MCIMETRO ACCESS TRANSMISSION SERVICES, LLC PETITION FOR ARBITRATION PURSUANT TO SECTION 252(b) OF THE TELECOMMUNICATIONS ACT OF 1996 TO ESTABLISH AN INTERCONNECTION AGREEMENT WITH AMERITECH OHIO.

Oklahoma

Consolidated Dockets PUD NO. 000237: IN THE MATTER OF THE APPLICATION OF SOUTHWESTERN BELL TELEPHONE COMPANY FOR AN ORDER APPROVING PROPOSED CHANGES AND ADDITIONS IN APPLICANTS' WIDE AREA TELECOMMUNICATIONS SERVICE PLAN TARIFF; and,
PUD NO. 000254: IN THE MATTER OF THE APPLICATION OF SOUTHWESTERN BELL TELEPHONE COMPANY FOR AN ORDER APPROVING PROPOSED ADDITIONS AND CHANGES IN APPLICANTS' ACCESS SERVICE TARIFF AND WIDE AREA TELECOMMUNICATIONS SERVICE PLAN TARIFF

Consolidated Dockets PUD NO.920001335: IN THE MATTER OF THE APPLICATION OF THE OKLAHOMA RURAL TELEPHONE COALITION, GTE SOUTHWEST, INC., ALLTEL OKLAHOMA, INC., AND OKLAHOMA ALLTEL, INC. FOR AN ORDER ADOPTING THE OKLAHOMA ALTERNATIVE SETTLEMENT PLAN; and
PUD NO.920001213: IN THE MATTER OF THE APPLICATION OF SOUTHWESTERN BELL TELEPHONE COMPANY FOR AN ORDER IMPLEMENIING TERMINATING ACCESS CHARGES IN LIEU OF INTRALATA TOLL AND SURCHARGE POOLS; and
PUD NO.940000051: IN RE: INQUIRY OF THE OKLAHOMA CORPORATION COMMISSION REGARDING WHETHER THE INTRALATA TOLL POOL AND SURCHARGE POOL SHOULD CONTINUE TO EXIST IN THE STATE OF OKLAHOMA

Oregon

Docket UN 1038: IN THE MATTER OF AN INVESTIGATION INTO ISSUES RELATED TO THE COMMISSION POLICY OF POSTING SERVICE QUALITY REPORTS TO ITS WEBSITE, PURSUANT TO ORS 756.510

South Carolina

Docket No. 92-606-C: IN RE: N11 SERVICE CODES.

Tennessee

Docket No.93-07799: IN RE: SHOW CAUSE PROCEEDING AGAINST CERTIFIED IXCS AND LECS TO PROVIDE TOLL FREE, COUNTY-WIDE CALLING.

Docket No.93-08793: IN RE: APPLICATION OF MCI METRO ACCESS TRANSMISSION SERVICES, INC. FOR AUTHORITY TO OFFER LOCAL EXCHANGE SERVICES WITHIN TENNESSEE.

Docket No.94-00184: INQUIRY FOR TELECOMMUNICATIONS RULEMAKING REGARDING COMPETITION IN THE LOCAL EXCHANGE.

Docket No.95-02499: UNIVERSAL SERVICE PROCEEDING, PART 1 - COST OF UNIVERSAL SERVICE AND CURRENT SOURCES OF UNIVERSAL SERVICE SUPPORT, AND PART 2 - ALTERNATIVE UNIVERSAL SERVICE SUPPORT MECHANISMS.

Docket No. 00-00309: PETITION OF MCIMETRO ACCESS SERVICES, LLC AND BROOKS FIBER COMMUNICATIONS OF TENNESSEE, INC. FOR ARBITRATION UNDER THE TELECOMMUNICATIONS ACT OF 1996

Texas

Docket 4992: APPLICATION OF GENERAL TELEPHONE COMPANY OF THE SOUTHWEST FOR A RATE/TARIFF REVISION.

Docket 5113: PETITION OF PUBLIC UTILITY COMMISSION FOR AN INQUIRY CONCERNING THE EFFECTS OF THE MODIFIED FINAL JUDGMENT AND THE ACCESS CHARGE ORDER UPON SW BELL AND THE INDEPENDENT TELEPHONE COMPANIES OF TEXAS (Phase II).

Texas (continued)

Docket 5610: APPLICATION OF GENERAL TELEPHONE COMPANY OF THE SOUTHWEST FOR A RATE INCREASE.

Docket 5800: APPLICATION OF AT&T COMMUNICATIONS FOR AUTHORITY TO IMPLEMENT "REACH OUT TEXAS."

Docket 5898; APPLICATION OF SAN ANGELO FOR REMOVAL OF THE EXTENDED AREA SERVICE CHARGE FROM GENERAL TELEPHONE COMPANY OF THE SOUTHWEST'S RATES IN SAN ANGELO, TEXAS.

Docket 5926: APPLICATION OF SOUTHWESTERN BELL TELEPHONE COMPANY TO ESTABLISH FEATURE GROUP "E" (FGE) ACCESS SERVICE FOR RADIO AND CELLULAR COMMON CARRIERS.

Docket 5954: INQUIRY OF THE PUBLIC UTILITY COMMISSION OF TEXAS INTO OFFERING EXTENDED AREA SERVICE IN THE CITY OF ROCKWALL.

Docket 6095: APPLICATION OF AT&T COMMUNICATION FOR A RATE INCREASE.

Docket 6200: PETITION OF SOUTHWESTERN BELL TELEPHONE COMPANY FOR AUTHORITY TO CHANGE RATES.

Docket 6264: PETITION OF THE GENERAL COUNSEL FOR INITIATION OF AN EVIDENTIARY PROCEEDING TO ESTABLISH TELECOMMUNICATIONS SUBMARKETS.

Docket 6501: APPLICATION OF VALLEY VIEW TELEPHONE COMPANY FOR AN AMENDMENT TO CERTIFICATE OF CONVENIENCE AND NECESSITY.

Docket 6635: APPLICATION OF MUSTANG TELEPHONE COMPANY FOR AUTHORITY TO CHANGE RATES.

Docket 6740: APPLICATION OF SOUTHWEST TEXAS TELEPHONE COMPANY FOR RATE INCREASE.

Docket 6935: APPLICATION OF SOUTHWESTERN BELL TELEPHONE COMPANY TO INTRODUCE MICROLINK II- PACKET SWITCHING DIGITAL SERVICE.

Docket 8730: INQUIRY OF THE GENERAL COUNSEL INTO THE MEET-POINT BILLING PRACTICES OF GTE SOUTHWEST, INC.

Docket 8218: INQUIRY OF THE GENERAL COUNSEL INTO THE WATS PRORATE CREDIT.

Texas (continued)

Docket 8585: INQUIRY OF THE GENERAL COUNSEL INTO THE REASONABLENESS OF THE RATES AND SERVICES OF SOUTHWESTERN BELL TELEPHONE COMPANY.

Docket 10127: APPLICATION OF SOUTHWESTERN BELL TELEPHONE COMPANY TO REVISE SECTION 2 OF ITS INTRASTATE ACCESS SERVICE TARIFF.

Docket 11441: PETITIONS OF INFODIAL, INC., AND OTHERS FOR ASSIGNMENT OF ABBREVIATED N11 DIALING CODES.

Docket 11840: JOINT PETITION OF SOUTHWESTERN BELL TELEPHONE COMPANY AND GTE SOUTHWEST, INC. TO PROVIDE EXTENDED AREA SERVICE TO CERTAIN COMMUNITIES IN THE LOWER RIO GRANDE VALLEY.

Docket 14447: PETITION OF MCI TELECOMMUNICATIONS CORPORATION FOR AN INVESTIGATION OF THE PRACTICES OF SOUTHWESTERN BELL TELEPHONE COMPANY REGARDING THE EXHAUSTION OF TELEPHONE NUMBERS IN THE 214 NUMBERING PLAN AREA AND REQUEST FOR A CEASE AND DESIST ORDER AGAINST SOUTHWESTERN BELL TELEPHONE COMPANY.

Dockets 14940 and 14943: APPLICATION OF SOUTHWESTERN BELL TELEPHONE COMPANY FOR INTERIM NUMBER PORTABILITY PURSUANT TO §3.455 OF THE PUBLIC UTILITY REGULATORY ACT; AND APPLICATION OF GTE SOUTHWEST, INC. AND CONTEL OF TEXAS, INC. FOR INTERIM NUMBER PORTABILITY PURSUANT TO §3.455 OF THE PUBLIC UTILITY REGULATORY ACT.

Docket 16251: INVESTIGATION OF SOUTHWESTERN BELL TELEPHONE COMPANY'S ENTRY INTO THE INTERLATA TELECOMMUNICATIONS MARKET.

Docket 16285: PETITION OF MCI TELECOMMUNICATIONS CORPORATION AND ITS AFFILIATE MCIMETRO ACCESS TRANSMISSION SERVICES, INC. FOR ARBITRATION AND REQUEST FOR MEDIATION UNDER THE FEDERAL TELECOMMUNICATIONS ACT OF 1996.

Docket 18117: COMPLAINT OF MCI TELECOMMUNICATIONS CORPORATION AND MCIMETRO ACCESS TRANSMISSION SERVICE, INC. AGAINST SWBT FOR VIOLATION OF COMMISSION ORDER IN DOCKET NOS. 16285 AND 17587 REGARDING PROVISIONING OF UNBUNDLED DEDICATED TRANSPORT.

Docket 19075: PETITION OF MCI TELECOMMUNICATIONS CORPORATION FOR ARBITRATION OF DIRECTORY ASSISTANCE LISTINGS ISSUES UNDER FEDERAL TELECOMMUNICATIONS ACT OF 1996.

Texas (continued)

Docket 21706: COMPLAINT OF MFS COMMUNICATIONS COMPANY, INC. AGAINST GTE SOUTHWEST, INCORPORATED REGARDING GTE'S NONPAYMENT OF RECIPROCAL COMPENSATION

Docket 21791: PETITION OF SOUTHWESTERN BELL TELEPHONE COMPANY FOR ARBITRATION WITH MCI WORLDCOM COMMUNICATIONS, INC. PURSUANT TO SECTION 252(B)(1) OF THE FEDERAL TELECOMMUNICATIONS ACT OF 1996.

Docket 21982: PROCEEDING TO EXAMINE RECIPROCAL COMPENSATION PURSUANT TO SECTION 252 OF THE FEDERAL TELECOMMUNICATIONS ACT OF 1996.

Dockets 22168/22469: PETITION OF IP COMMUNICATIONS CORPORATION TO ESTABLISH EXPEDITED PUBLIC UTILITY COMMISSION OF TEXAS OVERSIGHT CONCERNING LINE SHARING ISSUES; COMPLAINT OF COVAD COMMUNICATIONS COMPANY AND RHYTHMS LINKS, INC. AGAINST SOUTHWESTERN BELL TELEPHONE COMPANY AND GTE SOUTHWEST INC. FOR POST-INTERCONNECTION AGREEMENT DISPUTE RESOLUTION AND ARBITRATION UNDER THE TELECOMMUNICATIONS ACT OF 1996 REGARDING RATES, TERMS, CONDITIONS AND RELATED ARRANGEMENTS FOR LINE SHARING

Docket 24542: PETITION OF MCIMETRO ACCESS TRANSMISSION SERVICES LLC FOR ARBITRATION OF AN INTERCONNECTION AGREEMENT WITH SOUTHWESTERN BELL TELEPHONE COMPANY UNDER THE TELECOMMUNICATIONS ACT OF 1996

DOCKET 28821: ARBITRATION OF NON-COSTING ISSUES FOR SUCCESSOR INTERCONNECTION AGREEMENTS TO THE TEXAS 271 AGREEMENT

Washington

Docket No. UT-003022: IN THE MATTER OF THE INVESTIGATION INTO U S WEST COMMUNICATIONS, INC.'S COMPLIANCE WITH SECTION 271 OF THE TELECOMMUNICATIONS ACT OF 1996

DOCKET NO. UT-003013, Part D: IN THE MATTER OF THE CONTINUED COSTING AND PRICING OF UNBUNDLED NETWORK ELEMENTS, TRANSPORT, AND TERMINATION

EXHIBIT DP-2

REDACTED

EXHIBIT DP -3

ARIZONA
DOCKET NO. T-00000D-00-0672
AT&T 01-024
ATTACHMENT A

	Current Rates	FCC Rates
ARIZONA		
DTT VG FIXED		
0-8 MILES	$25.96	$20.86
8-25 MILES	$25.96	$21.28
25-50 MILES	$25.96	$20.37
OVER 50 MILES	$32.45	$24.46
DTT VG VARIABLE		
0-8 MILES	$0.17	$0.27
8-25 MILES	$0.17	$0.15
25-50 MILES	$0.17	$0.13
OVER 50 MILES	$0.45	$0.29
DTT DS1 FIXED		
0-8 MILES	$85.06	$45.27
8-25 MILES	$109.43	$57.70
25-50 MILES	$114.69	$62.71
OVER 50 MILES	$133.80	$69.05
DTT DS1 VARIABLE		
0-8 MILES	$13.39	$6.85
8-25 MILES	$14.27	$7.23
25-50 MILES	$14.27	$7.61
OVER 50 MILES	$15.09	$7.96
DTT DS3 FIXED		
0-8 MILES	$852.75	$429.89
8-25 MILES	$852.75	$412.09
25-50 MILES	$852.75	$413.55
OVER 50 MILES	$959.34	$520.36
DTT DS3 VARIABLE		
0-8 MILES	$92.82	$71.01
8-25 MILES	$92.82	$45.79
25-50 MILES	$94.98	$46.72
OVER 50 MILES	$107.93	$58.94
E O DED TRUNK PORT	$9.01	$6.00
TT FIXED		
0-8 MILES	$0.000199	$0.000180
8-25 MILES	$0.000255	$0.000231
25-50 MILES	$0.000263	$0.000238
OVER 50 MILES	$0.000265	$0.000240
TT FIXED SUBTOT		

	Current Rates	FCC Rates
RIZONA		
IT VARIABLE		
0-8 MILES	$0.000020	$0.000048
8-25 MILES	$0.000023	$0.000027
25-50 MILES	$0.000023	$0.000017
OVER 50 MILES	$0.000023	$0.000015
TT VAR SUBTOT		
TANDEM SWITCHING	$0.005000	$0.002545
E.O. SHARED PORT	$0.001300	$0.000747
C T MUX	$0.000137	$0.000036
TDM TRUNK PORT	$6.59	$4.67
VG ENT FAC	$64.67	$51.35
DS1 ENT FAC	$116.82	$92.18
DS3 ENT FAC	$1,350.00	$1,083.53
DS1/VG MUX	$211.86	$199.98
DS3/DS1 MUX	$266.00	$252.37
INTERCONN CHG	$0.002450	$0.000000
ORIG LS	$0.017300	$0.001968
TERM LS	$0.017300	$0.001968
TOTAL LS		
ORIG CCL	$0.006244	$0.000000
TERM CCL	$0.014153	$0.000000

EXHIBIT DP -4

CMP
INTERNETWEEK.com
TECHNOLOGY THAT CONNECTS THE ENTERPRISE
Part of the TechWeb Business Technology Network

Wireless Gaining At the Expense Of Wire-Line Service

By Antone Gonsalves, InternetWeek
Nov 10, 2004 (3:30 PM)
URL: http://www.internetweek.com/story/showArticle.jhtml?articleID=52600678

An increasing number of people are using their cellular phones for long-distance calls, giving them one more reason to dump their wire-line telephone service.

An annual survey of U.S. households on the use of communications services has found that cellular phone users today are making 60 percent of their long-distance calls on their handsets, market researcher The Yankee Group said Wednesday. That number has been increasing steadily year over year, with 35 percent in 2002 and 43 percent in 2003.

"We're seeing long distance as a standalone industry disappearing," Yankee analyst Kate Griffin said.

Wireless carriers offering unlimited plans, which include long distance, is a key driver behind the trend, Griffin said. As a result, consumers are given one more reason to use their wired home phones less.

"People are using more and more minutes year over year, and as they use their cellular phones more, their replacing traditional land lines," Griffin said.

So far, only about 3.5 percent of U.S. households have opted to dump their traditional phone service, a move that's mostly prevalent among young adults and singles. Among the reasons for still having a home phone is for a data line to the computer and having one number to reach the family.

To prevent the replacement of wire-line phones by cellular phones, however, carriers will have to offer both services as a bundle, and begin integrating the services. Carriers, for example, could eventually offer one telephone number, access to email and voice mail and free calling to the home number by a cellular phone.

"You want to begin to connect wireless and wire-line usage, so there is a consumer perception of value (in having both)," Griffin said.

Bundling of services is certainly a plus among many consumers, the annual Yankee survey of about 2,100 households found. The percentage of households interested in having a single provider for all their communications need has risen steadily from 38 percent in 2002 to 49 percent this year.

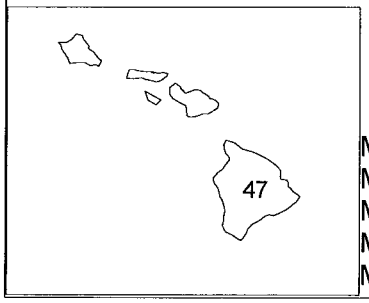
This is good news for telephone carriers and cable operators, which have been selling packages that include high-speed Internet connections, telephone service and TV programming at a price that's less than if the consumer bought each product separately. The idea is to provide so many services that the customer will find it too difficult to switch to a competitor.

"One way to build loyalty is to tie the products together and then build connections between the products," Griffin said.

Consumers who have bought their wire-line telephone service and their high-speed Internet connection in a package from a single carrier are as much as 40 percent less likely to leave than the average U.S. household, The Yankee Group found.

Home | Breaking News | E-Business | Application Development
Security | Open Source | All Stories

The 51 Major Trading Areas (MTAs)



MTA-Like areas not shown:
M25 Puerto Rico & US Virgin Islands
M49 Alaska
M50 Guam and Northern Mariana Islands
M51 American Samoa

EXHIBIT DP-5

EXHIBIT DP -6

Arizona
Docket No. T-00000D-00-0672
AT2:30 PM 01-011
Attachment A

Arizona

	Pre-Cost Docket Effective 3/20/1997	Cost Docket Effective Pre 6/12/02	Cost Docket Effective 6/12/2002	Cost Docket Effective 12/12/2002	SGAT 13th Revision
Local Switching	$0.004000	$0.002800	$0.002800	$0.0009695	$0.0009695
Tandem Switching		$0.001400	$0.001400	$0.000550	$0.0005500
Tandem Transmission					
Fixed		$0.000880	$0.000795	$0.000790	$0.0007900
Per Mile					$0.0000000
Transit		$0.002280	$0.002195	$0.001340	$0.0001340

EXHIBIT DP -7

Qwest.
Spirit of Service

Qwest
1801 California Street, 10th Floor
Denver, Colorado 80202
Phone 303 383-6614
Facsimile 303 896-9994

Kristin L. Smith
Senior Attorney

September 28, 2004

VIA OVERNIGHT MAIL

Docket Office, Room 2001
California Public Utilities Commission
505 Van Ness Avenue
San Francisco, CA 94102

RE: Comments on Reopening of Phase I, *Order Instituting Rulemaking to Review Policies Concerning Intrastate Carrier Access Charges,* Phase I, R.03-08-018.

To Whom It May Concern:

Enclosed for filing with the Commission are the original and six (6) copies of the Comments on the Reopening of Phase I submitted by Qwest Communications Corporation in the above-captioned matter before the California Public Utilities Commission. Please also return the file-stamped copy in the enclosed self-addressed, stamped envelope.

Please also do not hesitate to contact me with any questions or concerns. Thank you in advance for your assistance in this matter.

Respectfully submitted,

Kristin L. Smith
Attorney for Qwest Communications Corporation

cc: Active Party List, R.03-08-018 (By Email and U.S. Mail)

BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA

Order Instituting Rulemaking to Review Policies Concerning Intrastate Carrier Access Charge	Rulemaking 03-08-018 (Filed August 21, 2003) PHASE I

COMMENTS OF QWEST COMMUNICATIONS CORPORATION (U-5335-T) ON THE REOPENING OF PHASE I

Kristin L. Smith
Senior Attorney
1801 California Street, 10th Floor
Denver, CO 80202
303.383.6614
Fax: 303.896.9994
e-mail: kristin.smith@qwest.com

On behalf of Qwest Communications Corporation

DATED: September 28, 2004

BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA

Order Instituting Rulemaking to Review Policies Concerning Intrastate Carrier Access Charge	Rulemaking 03-08-018 (Filed August 21, 2003)
	PHASE I

COMMENTS ON DRAFT DECISION OF QWEST COMMUNICATIONS CORPORATION (U-5335-T)

Qwest Communications Corporation ("Qwest") (U-5335-T) submits its comments in response to the *Administrative Law Judge's Ruling Reopening Phase I and Seeking Additional Comments* ("*ALJ Ruling*") in the above-captioned proceeding before the California Public Utilities Commission ("Commission").[1] Specifically, the *ALJ Ruling* seeks comment on the effect of the intercarrier compensation proposals submitted to the Federal Communications Commission ("FCC") and of potential effects of changes in the long distance markets.

Along with many other parties in this proceeding, Qwest recognized in its Comments on the *Draft Decision* that concluding Phase I is "considerably overdue". Continued delay in this proceeding only serves to prolong the benefits to consumers, which inevitably result from access charge reform. For this reason, Qwest is compelled to point out that awaiting resolution of the intercarrier compensation issues at the federal level, or issues to be considered in Phase II cannot justify refusing to proceed with the necessary reform of California carriers' intrastate access charges for the first time in ten years.

I. PROPOSALS AT THE FEDERAL LEVEL SHOULD EXPEDITE ACCESS CHARGE REDUCTIONS IN CALIFORNIA, NOT DELAY SUCH REFORM.

Specifically, the ALJ seeks comment on whether the proposals made by the Intercarrier Compensation Forum ("ICF") and others to the FCC justify continuing to delay this proceeding.

[1] *Order Instituting Rulemaking to Review Policies Concerning Intrastate Carrier Access Charge*, Rulemaking 03-08-018, Administrative Law Judge's Ruling Reopening Phase I and Seeking Additional Comments (September 20, 2004)(" *ALJ Ruling*").

The answer is an unequivocal "no". As Qwest explained repeatedly throughout this proceeding, waiting to reduce intrastate access rates will only result in a significantly greater rate impact on California consumers, not to mention the detrimental impact on competing IECs continuing to pay excessive intrastate access rates.

While the ICF proposal plan is the closest to an industry consensus of all of the plans, it is not a final disposition of all of the issues facing the FCC with intercarrier compensation. The entire plan has not yet been filed with the FCC, but the scope of reform is larger than switched access, and contemplates changes to all intercarrier compensation. Dealing with all of these issues at the FCC will undoubtedly be a lengthy process. Simply put, the ICF proposal is a radical departure from the current structure of intercarrier compensation, requiring a national shift in traffic routing and compensation mechanisms. This radical departure raises many issues, but the most pertinent to this proceeding is the question of state preemption.

However, the likelihood of state preemption is always predicated upon whether the states have demonstrated their ability to maintain appropriate regulatory structures. In the past ten years, the Commission has failed to examine California intrastate access charges. Qwest, therefore, strongly recommends that the Commission take notice of the FCC's proceeding, and promptly proceed with intrastate access charge reform pursuant to its authority under state law.

II. THE COMMISSION'S FAILURE TO FINISH THIS PHASE IN A TIMELY MANNER HAS PREJUDICED THE MARKET TOWARDS OTHER TECHNOLOGIES.

The *ALJ Ruling* also delays resolution of Phase I under the guise of questioning whether the increased share in the long distance markets by the local exchange carriers ("LECs") along with other changes in the industry might result in various "windfalls" if not appropriately taken into consideration with rate rebalancing. The only windfall currently impacting the market is

that which arises from the Commission's refusal to proceed with the necessary intrastate access charge reform in California.

For instance, the *ALJ Ruling* raises concerns about the changes in the market associated with the recent announcement by AT&T Communications of California, Inc. ("AT&T") that "it will no longer market long distance services to residential customers." The Commission's concerns about the impact of this announcement on appropriate intrastate access charge reform could not be more misguided. AT&T replacing its traditional long distance offerings with VoIP services, first and foremost, evidences the need for the Commission to reduce intrastate access charges. Qwest has warned the Commission repeatedly throughout this proceeding that Commission action must be competitively-neutral, and should not favor any service or technology over another by allowing for confusing pricing anomalies.[2] As time passes, it has become clear that the Commission's inaction is having the most negative effect on the marketplace by favoring VoIP over traditional long distance service.

Alternatively, the *ALJ Ruling* incorrectly reopens Phase I to seek comments on two of the three issues to be addressed in Phase II. First, the *ALJ Ruling* sets forth that:

> The implication of these corporate relationships for our inquiry here is that reducing access charges and permitting the LEC to make corresponding increases to other rates would provide a windfall to the LEC's family of companies if the long distance affiliate is not compelled to make corresponding rate reductions.[3]

However, the Commission has already decided to address "how should the Commission redesign LEC rates?" and "what rates should be increased and by how much?" in Phase II.[4] There is no question that to answer these questions the Commission must factor in the extent to which any

---

2 *See* Qwest Comments; Qwest Reply Comments; Qwest Comments on Draft Decision.

3 *ALJ Ruling* at 3.

4 *Order Instituting Rulemaking* at 8-10.

windfall may or may not exist for the LECs because of changes in the marketplace. Then the *ALJ Ruling* goes on to explain that:

> Indeed, where the Commission permits LEC rate rebalancing, long distance carriers that are not LEC affiliates may receive a windfall if the long distance company does not reduce rates to reflect its lower costs of access.[5]

The Commission also already scheduled this issue to be addressed in Phase II. Specifically, the Commission asked "should the Commission require the IECs to pass through those costs reductions to their customers?" and "[i]f so, how should that be accomplished?" Thus, this concern is also already set to be addressed in Phase II.

There is no question that the Commission needs to advance this proceeding. If the Commission wants to deal with the Phase II issues in Phase I instead of a subsequent phase, then Qwest urges the Commission to address all issues from Phase II in Phase I. Of course, this means including in Phase I the only remaining outstanding, but most important issue—the reduction of the LECs' intrastate access charges. If the Commission insists on continuing with a separate, subsequent phase, then Qwest urges the Commission to close Phase I by issuing the *Draft Decision* with modifications suggested in Qwest's Comments on that draft, and move to Phase II as previously determined by the Commission with an expedited schedule to be concluded by December 16, 2004.

---

5 *ALJ Ruling* at 3.

CONCLUSION

Accordingly, Qwest continues to urge the Commission to *promptly* proceed with requiring revenue-neutral and competitively-neutral reductions in the intrastate switched access charges of all California LECs no later than December 16, 2004.

Respectfully submitted,

QWEST COMMUNICATIONS CORPORATION

By: 

Kristin L. Smith
Senior Attorney
1801 California Street, 10th Floor
Denver, CO 80202
303.383.6614
Fax: 303.896.9994
e-mail: kristin.smith@qwest.com

Counsel for Qwest Communications Corporation

DATED: September 28, 2004

CERTIFICATE OF SERVICE

I hereby certify that I have this day served a copy of the "Comments on Reopening of Phase I, *Order Instituting Rulemaking to Review Policies Concerning Intrastate Carrier Access Charges"* in R.03-08-018 upon all parties of record by electronic mail and U.S. Mail to their respective addresses as reflected on the Commission's official service list in this docket.

Dated this 27th day of September 2004, at Denver, Colorado.

Samantha A. House
Legal Assistant for Qwest Communications Corporation